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)              OF
SENATE JUDICIARY ) ELECTRONICALLY
COMMITTEE INVESTIGATION ) RECORDED TESTIMONY
HEARINGS
)

Place: Office of Legislative Services
State House Annex
Trenton, NJ 08625

Date: April 3, 2001
Time: 10:00 a.m.

MEMBERS PRESENT:

SENATOR WILLIAM L. GORMLEY, CHAIRMAN
SENATOR JAMES CAFIERO, VICE-CHAIRMAN
SENATOR LOUIS F. KOSCO
SENATOR ROBERT J. MARTIN
SENATOR JOHN J. MATHEUSSEN
SENATOR NORMAN M. ROBERTSON
SENATOR JOHN A. GIRGENTI
SENATOR JOHN A. LYNCH
SENATOR EDWARD T. O’CONNOR, JR.
SENATOR RAYMOND J. ZANE
SENATOR GARRY J. FURNARI

ALSO PRESENT:

Senate Democratic Staff
By: JO ASTRID GLADING, ESQ.

Senate Republican Staff
By: CHRISTINE SHIPLEY, ESQ.

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ALSO PRESENT: (Continued)

Latham and Watkins
By: MICHAEL CHERTOFF, ESQ.
   SCOTT LOUIS WEBER, ESQ.

Office of Legislative Services
By: JOHN TUMULTY, OLS Aide

Exhibits

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SENATOR GORMLEY: Committee members, please take their seats.
General, would you please stand. Raise your right hand.

J O H N J. F A R M E R, JR., SWORN

SENATOR GORMLEY: Be seated.
We’d appreciate your opening statement at this time.

ATTORNEY GENERAL FARMER: Thank you, Senator Gormley, and good morning everybody.

Nearly two years ago I came before this Committee seeking its approval for my nomination to be Attorney General of this state. In so doing, I pledged to make the issue of racial profiling my earliest priority. I pledged to do whatever I could to move the State forward and to restore the public’s trust of the State Police in enforcing our laws evenhandedly.

I’m before you again today at a critical juncture in the process of change. On the positive side, we broke ground yesterday on a new building to house the State Police forensic labs and communication center. When completed, the building will house the most advanced high-tech facility of any state law enforcement agency.

This morning, 120 in the State Police class will be graduating. Although my testimony here precludes me from addressing the class, were I to do so, I would tell them that I am proud of them for choosing public service in the New Jersey State Police despite the negative publicity of the past few years.

I’d also tell them that notwithstanding the recent publicity, the future of the State Police is bright. The state of the art adult-based learning and training they received at the Academy will be followed up by the most aggressively-prepared trooper coaching program ever developed. Their arrival will free more supervisors for road duty so that their training and coaching can be further reinforced. They are entering an organization dedicated as never before to accountability, both in its dealings with the public and in its treatments of its members. The mechanisms for guaranteeing that accountability are in place and I believe that this change is both positive and irreversible.

At the same time, I cannot ignore current reality and the shadow it casts over both past and future. I have watched play out in the proceedings before this Committee the conflict within my
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Department that I have lived each day and many nights since taking office. It has been painful to live and now to relive. But I have lived it and I’ve tried at every turn and in every way to address it. Although as I will outline shortly, and as the federal Monitors have repeatedly affirmed, the groundwork for lasting reform has been laid. These hearings are the best illustration that in a fundamental way I have failed to heal the division within my Department. That remains my greatest challenge.

When I testified before you in May 1999, I harbored one fundamental misconception about the task before me. I believed that I had a clear mandate to bring about fundamental reform in the New Jersey State Police. Almost from the day I took office, however, as I began to reach out for varying perspectives to current and former members of the State Police of all ranks, I began to realize that far from accepting the conclusions of the interim report, many members of the State Police believed with almost religious fervor and belief to this day that they had been used. Used to fight the war on drugs, when fighting drugs was the fashion of the day, then abandoned when the consequences of that war became unpleasant. Even those, and there were many, who are open to the need for reform, questioned the timing and method of the review and the report.

At the same time, many in the civil rights community demanded radical change immediately, arguing with justification that the humiliation of disparate treatment had to end and that those who persisted in it must be disciplined.

To make matters worse, as I spoke at various meetings with troopers on the one hand and the civil rights community on the other, it became clear that there was no commonly-accepted definition of what racial profiling is to begin with. Everyone agrees that law enforcement decisions predicated solely on race are reprehensible and should be forbidden. When for years the State Police denied that profiling was occurring, at least systemically, this is what they were referring to.

The civil rights leaders on the other hand, any consideration of race as a factor in forming a law enforcement decision, a decision to stop or once stopped to investigate further, constitutes racial profiling and should be prohibited.

Complicating matters further was case law that conflicted on the constitutionality of race as a
factor in law enforcement decision-making. Indeed, as Professor Randall Kennedy points out, decisions “permitting race to be used on a routine basis is a negative signal of increased risk of criminality represent an influential, indeed dominant, view within the judiciary.”

Notwithstanding this precedent, New Jersey has chosen, in both the interim report and the consent decree, to forbid the use of race as a factor as a matter of policy rather than of constitutional compulsion. Still, one can understand the bitterness of some members of the State Police for being condemned for using race as a factor when many courts have upheld its use and when race was prominently featured in law enforcement intelligence routinely provided by the Justice Department and other law enforcement entities.

Given the bitter conflict at the heart of this dynamic, I believe that our progress in addressing the issue has been remarkable. I’ve decided early on that this debate, this fissure, could not be resolved until we were able to obtain a truly accurate picture of what was actually occurring on the road. We had statistics but did not know whether they were accurate. And we have radically-

conflicting views as between drivers and troopers about the nature of their exchanges.

Put simply, we had to design and instill a system in which accountability was assured. That has been my consistent focus. I’d like to take a few minutes now to update you on our progress in designing and instilling such a system and to brief you on what we’ve learned about recent trooper conduct as a result of this progress.

For the first six months of my tenure, my focus was three-fold. First, I sought to complete the comprehensive review of State Police management and structure that had begun in February. A report that was issued called for fundamental changes in the way State Police was operating. The EEOAA function within the State Police was transferred to my office so that the State Police were treated like the other Divisions in my Department.

Internal Affairs has been reorganized. Recruitment and training has been substantially augmented. The Office of State Police Affairs has created a bridge between my office and the Division of State Police that did not exist before.

My second priority was hiring a new Superintendent, Carson Dunbar, and a Director of
State Police Affairs, Martin Cronin. They came onboard in the fall of 1999.

My third priority was to conclude negotiations with the United States Department of Justice. Those negotiations were spearheaded first by Paul Zoubek and ultimately by Martin Cronin. Many of the recommendations contained in the reports were ultimately embodied in the consent decree, which we signed at the end of December 1999, and thus has the force of law.

State Police members are now required by law to report via the Computer Aided Dispatch System all of the basic facts about their stops as follows: The name and identification number of the trooper who initiated the stop. The names and badge numbers of troopers who actively participated in the stop. The time at which the stop commenced and which it ended. The license number and state of the stopped vehicle. The gender and race or ethnicity of the driver and his date of birth, if known. Whether the driver was issued a summons or warning and the category of violation and the reason for the stop; moving violation, non-moving violation, probable cause, be on the lookout, et cetera. That requirement applies now to all stops. In approximately ten percent of stops, those where troopers called for stopped motorists to exit their cars, where motorists are frisked or searched or where a consent to search is requested, troopers will be required to fill out a motor vehicle stop form. These forms must include whether the vehicle occupants were requested to exit the vehicle. Whether the vehicle occupants were frisked. Whether a consent to search was requested and granted. Whether a drug detection canine was deployed and whether an alert occurred. Whether a non-consensual search was conducted. Whether any contraband was seized. Whether the vehicle occupants were arrested and if so, the specific charges. And whether the vehicle occupants were subjected to deadly, physical, mechanical or chemical force.

The consent decree embodied this new SOP for stops. Required training consistent with the SOP and provided that all information generated would fall into a computerized system designed to maintain and retrieve information that would help supervise and manage the State Police.

Training pursuant to this new SOP was concluded by September of the year 2000. The computerized system known as the Management Awareness Program, or MAP, will begin to be put in place this
month and is the final major element needed to place
the State in full compliance with the consent decree.

The decree also provided for quarterly
reports to be issued by federally-appointed Monitors,
assessing the State’s efforts to comply with these
provisions. We’ve had two such reports issued to
date, both of which have been extremely positive.
The first Monitor’s report states unequivocally,
“Members of the Monitoring team were unanimously
impressed with the commitment, focus, energy and
professionalism with which members of the New Jersey
State Police and the Office of State Police Affairs
applied themselves and their organizations to
implementation of the changes required by the decree.
While the Agency is not in complete compliance, this
is to be expected. The Monitoring team knows of no
Agency action which could have been completely
complied with the requirements of this decree in the
period of time available. Many of the tasks required
by the decree are generally considered to be multi-
year tasks by those familiar with the process of the
system’s design and development in policing.

“Particularly with respect to training,”
the report notes, “the methodology they have used in
developing this training reflects state of the art in
the field and their commitment to doing the job right
is exceptional. In many cases, the Agency goes well
beyond the requirements of the decree and simply
seeks the best answer to any given question or
issue.”

The second Monitor’s report concludes, “The
State has established the state of the art for ethics
and integrity training for a large law enforcement
Agency. Furthermore, the Monitoring team’s field
tests of the electric reporting system for motor
vehicle stop reports indicates that the system is
robust and provides accurate and timely data to
Managers and Supervisors. Error rates are extremely
low.”

To date, the federal Monitors have found us
to be at level one of the policy compliance with 88
of 96 potential tasks or 92 percent.

We are at level two, or full compliance,
with respect to 52 of the potential tasks.

Our progress has truly been extraordinary.
But what does progress mean in this context? Does
full compliance with the consent decree guarantee an
end to racial profiling? It’s too soon to tell.
What full compliance will guarantee, however, is the
emergence within the State Police of a cultural of
accountability that will make profiling impossible to conceal and thus highly unlikely to occur. The best illustration of this is with respect to consent-to-search data for the year 2000. Let me walk you through the analysis and describe the process that we’ve undertaken.

Presented late last year with data concerning the rates at which various ethnic groups were stopped in the area patrolled by the Moorestown station, the State Police and Office of State Police Affairs commenced a management inquiry. This inquiry extended to the collection and analysis of consent-to-search documents for the Turnpike during 2000. Subsequently, this document analysis was augmented to review the mobile video recorder tapes from each consent search.

Let me run through the numbers quickly with you. First, a traffic population survey conducted pursuant to the consent decree concluded that whites comprised from 60 to 65 percent of the drivers on the southern end of the Turnpike, while blacks comprised 14 to 20 percent, and Hispanics nine to 13 percent.

The stop figures reflected, however, that whites comprise approximately 54 percent of the stops, while blacks comprised 32 percent, and

Hispanics comprised eight percent --

SENATOR GORMLEY: Excuse me, General. Do you have copies?
ATTORNEY GENERAL FARMER: What I will be passing out is a -- when I get through running through the numbers, we have a graphic breakdown that we’ll be showing you.
SENATOR GORMLEY: Okay. But what I’m saying, is there an extra copy of your statement? I’d like to have it run off now so the members could --
ATTORNEY GENERAL FARMER: I will make it available to you.
SENATOR GORMLEY: Okay.
ATTORNEY GENERAL FARMER: Yes.
SENATOR GORMLEY: They’re paying attention, I’d just like...
SENATOR ROBERTSON: I can’t write that fast.
ATTORNEY GENERAL FARMER: I’ll slow down.

These discrepancies, while cause for concern, are not conclusive. As the Justice Department noted in its national survey on contacts between the police and public released this month, “Because a survey has no information on how often
people of different races break traffic laws, analysis of the data cannot settle the question of whether or to what extent racial profiling exists.”

The numbers were sufficiently troubling, however, to prompt me to launch a full-scale management inquiry earlier this year. The Department is currently in the process of conducting a form of violator survey, specifically a speed survey, to help address the issue from a stops point of view. But we decided to go further. Specifically, I ordered the consent search numbers to be broken down for Troop D. Those numbers showed for Moorestown that whites were subjected to consent searches 19 percent of the time, while blacks were at 53 percent, and Hispanics at 25 percent, while Asians were at three percent. These numbers are lower than the numbers for 1994 and 1996, but on a par with those from the interim report. Thus, blacks and Hispanics were subjected to consent searches at rates higher than their presence on the road and higher than their stop rates.

We broke the numbers down further. I asked that each report be scrutinized on its face to determine whether the report reflected the presence of probable cause as opposed to reasonable suspicion.

And we defined probable cause for purposes of this inquiry in a limited way to mean only plain view of contraband, plain smell of contraband or admission that contraband was present. The results were that 54 percent of consent searches of whites reflected one of these three factors; whereas, 26 percent of searches of blacks and eight percent for Hispanics reflected probable cause.

Thus, requests to search of whites are based on probable cause at more than double the rate for blacks and more than six times the rate for Hispanics.

Requests for consent to search blacks and Hispanics seem thus to be made based upon the lower quantum of proof. These disparities are reflected in the find rates which are as follows: Seizures result in the consent searches of whites 25 percent of the time. For blacks, 13 percent of the time. For Hispanics, five percent of the time. Let me state it otherwise. Consent searches are twice as likely to yield seizures when conducted for whites as opposed to blacks and five times as likely for whites as for Hispanics, which yield nothing 95 percent of the time.

We went further. I ordered the searches
broken down by squad and ultimately by trooper. We had found that those troopers who had four or more consent searches last year averaged 80 percent of black or Hispanic searches with find rates lower than the average.

I have now ordered that every video-taped consent search be viewed individually. First for Moorestown and ultimately for the entire Turnpike. While this review is not complete, I can state the following: Now, we have proof. Some of the video tapes we have reviewed confirmed what the numbers suggest. Not only is the use of race or ethnicity as a factor in making a decision to ask for consent subject to abuse based on prejudice, it is also quite simply bad law enforcement. The case that we are building will result in discipline where appropriate and that is on an individual basis, because in the end we simply cannot have law enforcement by the numbers. In order to move forward, we simply had to reach a point where our level of analysis could focus on individual conduct. When the MAP system is operational, I believe we will have taken the last step.

And at this point we have a series of graphics that illustrate what I just went through.

(Slide presentation)

The first one that you see are the gross numbers for the Troop D consent searches for 2000. And you can see that on a Turnpike-wide basis, 27 percent white, 46 percent black, 25 percent Hispanic, two percent Asian. The total number of searches being 271, reaches a significant fall-off from prior years.

The next slide. Now, we’re going to go station by station. This is the Newark station. It’s interesting because not only do they have fewer consent searches conducted in Newark, but the percentages are roughly those suggested by a population survey. So it’s pretty much in line with what you would expect given the population survey that we conducted with the Justice Department.

The next slide. Now, moving south are Cranbury. The numbers are somewhat worse. Forty-four percent black, 32 percent white, 24 percent Hispanic. Disproportionate to what would be suggested by the portion of drivers on the road.

And then we get to Moorestown, which is by far the most disproportionate of the numbers we looked at. Fifty-three percent consent to search black, 25 percent Hispanic, and Moorestown also had
by far the greatest number of consent searches
conducts.
Now, we have broken down, as I requested
that they do, probable cause versus reasonable
suspicion. This is for the Moorestown station. You
can see that with white drivers, it’s almost half of
the reported searches containing elements of probable
cause. When you turn to blacks, it’s 74 percent do
not have those elements. Have a lesser quantum of
proof identified by reviewing the reports that were
filed. When we get to Hispanics, it’s even lower.
Probable cause in only eight percent of the searches
identified.

SENATOR GORMLEY: Excuse me. We need to
clarify a particular fact. Senator Matheussen.
ATTORNEY GENERAL FARMER: Okay. Yes.
SENATOR MATHEUSSEN: General, maybe I
missed it. Could you tell us the year these
statistics were based on?
ATTORNEY GENERAL FARMER: This is 2000.
SENATOR MATHEUSSEN: The year 2000. Thank
you. I’m sorry.
ATTORNEY GENERAL FARMER: The year 2000,
yeah.

SENATOR LYNCH: And when were they
accumulated? When did you prepare this report?
ATTORNEY GENERAL FARMER: It was prepared --
-- well, I ordered the review to be conducted in
January and it’s still going on. So --
SENATOR LYNCH: When did you prepare these
slides?
ATTORNEY GENERAL FARMER: In the last
couple days.
Now we get to actual find rates for the
different kinds of searches. And you have -- this is
for white drivers. Seventy-five percent of the time
they don’t find anything, but they do have the
highest find rate when you add the probable cause and
reasonable suspicion searches, it’s 25 percent. And
turning to blacks, your find rate is basically 13
percent. Interestingly, only five percent were
probable cause, as reflected in the reports, which is
something that we’re looking at.
And finally, for Hispanics there were in
Mooresstown, there were no reports that evidenced any
kind of probable cause and only five percent recovery
from those stops and searches.

It’s important to note, though, that this
is really a national problem and I would refer the
Committee to -- and I can provide you with this
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report from the Department of Justice issued this month. Contacts between police and the public. Interestingly, 19.3 million contacts or stopped drivers were reported. 1.3 million searches or 6.6 percent of those contacts. That rate is higher than the rate in New Jersey of searches, at least in recent years. And of those 1.3 million searches, 86.7 percent found basically nothing, which is on a par with what we found in New Jersey.

Searches of white drivers, again, found criminal evidence 17 percent of the time. Blacks were eight percent of the time. Hispanics were ten percent of the time. So the problem really is not limited to New Jersey, although I think we’ve done more to address it than any other state.

The process has been slow and painful. It will continue to be. It’s clear we have not solved the problem. We have taken steps to address it that are a model for the nation. And let’s be clear, this is a national problem, as you’ve just seen in the Justice Department’s 1999 study of contacts between the police and the public.

So far as I know, we’re the first state to have taken the proactive measures necessary to evaluate conduct as it should be evaluated, on an individual basis.

One final note before taking your questions. I believe in the mission of my Department. I’m proud of the Department’s willingness to undergo the kind of scrutiny we have undergone for the past two years and the past two weeks. Serving as Attorney General has been the greatest, most humbling honor and challenge I can hope or desire to obtain. I have no aspiration to serve past my term in January. I promised my wife I would say that under oath.

(Laughter)

Or for any other position. I want to get this right. I hope that the Committee will endorse the progress we’ve made for the past two years so we can heal the wounds of the past and move forward as one department and one state.

Thank you.

SENATOR GORMLEY: Senator Matheussen.

SENATOR MATHEUSSEN: General, let me first say I was proud to vote for your nomination two years ago and I, quite frankly, think that we still should be very, very happy with the progress, the attempts that you are making to bring this situation to the progress where we are right now and I commend you on
the report that you’ve given today.

I also would like to say to you that it’s refreshing that somebody has to answer to a higher calling, your comments at the very end, but perhaps as we move ahead, people will reflect on some of the things that you’re doing now and put them to good use either with you or a successor, or whatever it might be, but so far what you’ve laid out to me certainly has some very important items to it.

Let me ask you, the first thing out, you said you believed in -- you believed in your Department’s message or -- I forget the word --

ATTORNEY GENERAL FARMER: Mission.

SENATOR MATHEUSSEN: Mission, excuse me.

Tell me what that mission is, if you would, General.

ATTORNEY GENERAL FARMER: I think the overriding mission of the Department of Law and Public Safety is really to work to ensure the public’s trust in government. And that’s something that we do across the board. Whether it’s with respect to this issue or whether it’s with respect to consumer confidence in Consumer Affairs, Criminal Justice, Gaming Enforcement, that’s our primary mission and I believe it’s -- you can’t do more important work in government than that.

SENATOR MATHEUSSEN: You had a difficult choice, I’m certain, today having to forego speaking before the new state trooper class and being here. And I’m sure if it was a choice, you would have made a different one perhaps. But this is an overriding issue and I’m happy that you’re here before the Judiciary Committee but I’m also, at at time we’re in right now, somewhat -- it’s unfortunate that you could not be with the state troopers. Tell me, what would you have told them regarding racial profiling and what the future holds for them in the state trooper division.

ATTORNEY GENERAL FARMER: I would have told them that they are entering the Division at the perfect moment because what we are establishing in the Division is essentially a culture of accountability so that they can be assured that they’re going to be treated fairly as troopers within the State Police and by my Department and that they can go out and do the right thing and not have to worry. In the past, I think one of the problems that led to racial profiling was an absence of the kind of accountability and supervision that we’re putting in place, so that the actions of a few could come to characterize an entire Division and you could run
They’re going to have the best training. They’re going to have the best everything to do their jobs.

SENATOR MATHEUSSEN: I’d like to get some technical questions, if I could, but let me ask you one more perhaps philosophical question. If you had the opportunity to address a large assemblance of young black and Latinos at this very moment, what would your address contain to them when it came to the issue of racial profiling?

ATTORNEY GENERAL FARMER: I would tell them basically that we are being more aggressive than any other state in the country to ensure that people are treated evenhandedly and not treated differently because of the color of their skin. I would not try to tell them that we’ve completely solved the problem, clearly the numbers that I just laid out for you indicate that we have not as of the year 2000. I think there are reasons for that. I think any kind of reform of this magnitude is going to entail some kind of a lag time and that’s what we experienced in the year 2000. Just for instance, the training with respect to the new standard operating procedure on stops was not completed until the end of August. So in some respects, the consent search numbers are not fair -- are not a fair way to characterize the current actions of the troopers because they’ve now all been trained and we’ll see what the results of that training was.

But I think we’re more attuned to this problem than anybody else and that we’re moving aggressively to redress it.

SENATOR MATHEUSSEN: Some would say that these numbers are very troubling that you just showed us and that --

ATTORNEY GENERAL FARMER: They are extremely troubling.

SENATOR MATHEUSSEN: And that there have been -- there have been at least two years since the interim report came out. There has been at least four years since the Department of Justice took a careful look at New Jersey over these statistics. What do you say to your critics that say these numbers are still troubling and we’re not doing either not enough or not doing anything at all?

ATTORNEY GENERAL FARMER: I would say that, as I just did, this kind of reform of this magnitude takes time. And as the Monitor has taken pains to
point out, we are committed to doing it right. There are no quick fixes in a situation like this. A quick analogy is in the early eighties in Miami when they had a problem in the police department, they basically tried to clean house. They fired everybody at the upper echelons. They diversified by leaping people over ranks and the end result was actual rioting within the police department itself and ultimately 80 indictments were issued.

We have to get to this what I’ve called the culture of accountability, but we have to do it the right way. And it has taken too long, there’s no question about that. That’s not something that the Department would dispute. But I think what I want to get across to you is our good faith in trying to get there.

SENATOR MATHEUSSEN: You mentioned in the beginning that there was a deep division. One of the things when you took over the Department, that there was a deep division among State Police and among people within your own Department. Tell us about that division and tell us the status of that division now.

ATTORNEY GENERAL FARMER: Well, that division is something I realized early on, as I said.

I started to reach out to members of the State Police and hear their concerns. I have tried aggressively to address it and addressing the troopers to basically say we are one Department. The responsibility rests at the top. It’s with the Attorney General.

SENATOR MATHEUSSEN: I was going to ask you, who is the top?

ATTORNEY GENERAL FARMER: That’s the Attorney General. I bear ultimate responsibility for what happens. And the only way for any of us to succeed is if we move together as one Department and heal some of these wounds that have existed. The current state of it, I think temporarily it’s, you know, some wounds have been reopened by these hearings. I have come to believe that these hearings were necessary and if not inevitable. I at one time was frustrated by the likelihood of these hearings because I thought I was making progress and actually bringing people together and I saw the potential for the hearings to drive a wedge. But I think in a way it’s been good. It served as a catharsis for the Department and when this is over, I’m going to resume aggressively trying to address that situation. I think, frankly, one of the most important things
we’ve done to bring about that kind of healing is establishing the State Police Affairs. That office works very closely with the State Police. There are State Police members within that office are also lawyers. And it’s really broken down a lot of the walls and barriers that had existed before and I’m hoping to build on that in the future.

SENATOR MATHEUSSEN: General, I realize, and certainly sitting through these hearings for the last numbers of days, I realize that you are responsible for what some has estimated to be at least a 7,000 Department, counting State Police and people within the Attorney General’s Office, and I realize that on a day-to-day basis you cannot fathom or even begin to be responsible for every single issue in a way that you would know all the details.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR MATHEUSSEN: However -- however, having said that, there seems to me to be at least somewhat of a conclusion in my own mind that you need to have people who are subordinate to you that are in places of responsibility who are, in fact, taking on these issues on a day-to-day basis and know all the details. Assure me, if you would, by going through the people that work for you, who they are, what their backgrounds are, who are in charge of number one, keeping lines of communication opened up with State Police. Keeping lines of communication open with the Department of Justice. And most importantly, keeping information flowing into your office that you need to use to make decisions on on how to rectify this problem. Three areas.

ATTORNEY GENERAL FARMER: One of the truly gratifying experiences I’ve had as Attorney General is the quality of the people who have agreed to work with me. Paul Zoubek, who’s actually my Supervisor in the U.S. Attorney’s Office not too long ago. And I think the world of Paul. You’ve heard a lot from him over the last --

SENATOR MATHEUSSEN: Yes, we have.

ATTORNEY GENERAL FARMER: -- few days. And he is -- and he’s aggressively engaged in these issues. Probably the most pivotal person is another former colleague of mine from the U.S. Attorney’s Office, Martin Cronin, who’s the head of the Director of State Police Affairs. Marty is somebody who is extremely blunt. I wanted someone who was a prosecutor, but an investigative prosecutor. Someone who really knew how to make cases. Someone who knew how to work with police. Marty is from a police
family and he fit the bill perfectly. And I couldn’t have asked for a better person. I think there’s one thing the people around me have in common, whether it’s Cathy Flicker, who’s now the Director of Criminal Justice, or Paul or Marty or for that matter Carson Dunbar, I want people who are going to tell me the truth even if -- even if they think I won’t like it. I want people who are going to be extremely blunt and tell me bad news, because one of the difficulties in a job like this when you’re sitting on top of a Department of that size is knowing when you’re getting in trouble. And if you don’t have the people who are going to come to you and tell you this is a problem, then ultimately you’re going to be in trouble yourself.

So I’ve surrounded myself with people who -- we have some very interesting and fiery meetings, but they are people who I respect and who respect me enough to tell me bluntly what they think is going on.

SENATOR MATHEUSSEN: These are perhaps questions that have never been asked before, but I think they are appropriate to ask. The other person who is responsible for answering to the Department of Justice and --

ATTORNEY GENERAL FARMER: That would be Martin Cronin also.

SENATOR MATHEUSSEN: Okay. Your relationship, both professionally -- more importantly professionally with the Colonel, how does that work and what is your contact with him on a weekly basis or a day-to-day basis?

ATTORNEY GENERAL FARMER: It varies from week to week. Some weeks it’s every day. Some weeks we have several meetings during the course of a week and other weeks it’s not -- it’s not that active, depending on what my schedule is and depending where my intentions are being directed. It’s been a pleasure to work with Carson Dunbar. He is like Marty in some ways; very, very direct. Very blunt. He may not -- you may not agree with his opinion, but you’re going to hear it and as I said, an organization like this, you have to have that. We don’t -- we have not always agreed. We don’t necessarily agree on even most issues, but we have a kind of mutual respect where we can hash out our differences and move beyond them.

SENATOR MATHEUSSEN: May I ask what major issues are you in disagreement about when it comes to the area of racial profiling?
ATTORNEY GENERAL FARMER: Well, one of the things we’ve been talking about since we started this management inquiry is what do you do about consent searches. And I know that’s something that’s occupied the Committee --

SENATOR MATHEUSSEN: Yes, it has, so go right into it if you would.

ATTORNEY GENERAL FARMER: -- and, you know, what the proper steps to take are. A month ago I was of the view that I should simply issue a directive ending the practice. We had a long meeting on that and Carson persuaded me that -- and with actually Marty joining him, that would not be the right approach because consent searches can be a useful law enforcement tool as I think Sergeant Gilbert testified in front of this Committee. I recall a federal case from ten or 15 years ago involving a terrorist on his way to New York City who was stopped, I believe on Route 78 or Route 80, by the State Police and a consent search basically disclosed the explosives that he was going to New York with. So if you had a doctrine that prohibited consent searches, you might loses tens of thousands of people in a case like that.

So once you’ve concluded that it’s not right to prohibit it, what do you do? Because clearly there’s a problem.

I think Carson favors the approach of increased supervision on the road. Have a Supervisor at every -- at every consent search. And frankly, one of the advantages that we’re gaining from graduating these classes is that it is freeing Supervisors up so that they can actually have one in the barracks and one on the road so that they will be available for that kind of mission. Our concern with that is the length of time it will take the Supervisor to actually get to the stop. That could conceivably jeopardize officers’ safety in some circumstances if it takes too long. It could also, frankly, turn the stop into a custodial arrest based on U.S. v. Dickey, if you take too long to get there.

So we are wrestling with the same issue that the Committee has wrestled with and I can’t tell you at this point that we -- that we have come to terms exactly with what we’re going to do. One of the things that I’m strongly in favor of is where we’ve identified a trooper who seems to have a problem with his consent searches, to suspend his ability to perform until he is -- his case is disposed of and he’s either retrained or transferred.
or depending on how severe the infractions, terminate him.

SENATOR MATHEUSSEN: Have you reached out at all to community activists, community leaders and to find out from them their opinions as to where State Police have been, where they’re going to, and your relationship as the Attorney General with those community leaders?

ATTORNEY GENERAL FARMER: Yes, I have. Carson and I have both spoken on numerous occasions in front of community groups. And, in fact, one of the things I think we really need to do in this state is to have some kind of a dialogue where community leaders and State Police folks are really in the same room talking, because it’s in that kind of forum that I think you’ll see the people’s different definitions of racial profiling emerge.

SENATOR MATHEUSSEN: Well, explain the forum a little bit, because you said you’ve spoken before these groups. Tell me what the forum was like. Because if you had spoken before them, that doesn’t to me transcend that you’re getting a lot of information back from them. It sounds like you’re talking to them. Tell me about the forum.

ATTORNEY GENERAL FARMER: Well, I’ve spoken

at, you know, the Black Ministers Council last year. I’ve spoken at numerous community forums of varying sizes. So the level of feedback that you get depends on the size of the group you’re addressing and how free they feel to talk to you afterwards. But it’s been one of my constants on my schedule is going out and speaking on this issue, both to community groups and to law enforcement groups. And as I said, the perspectives you get are different enough that it’s a cause for concern.

SENATOR MATHEUSSEN: General, you have a lot on your plate obviously. There has been some accusations, and perhaps rightfully so, that there are a lot of people responsible for racial profiling. That at one time or another State Police were getting conflicting instructions saying that hey, look, if you do certain -- do a certain profiling, you’ll probably catch a lot of bad guys that are out there. And then Civil Justice saying but if you do that, you’re violating people’s civil rights. We have community activists who say that a lot of people are being offended by this line of work. But let’s talk about government for a moment. There’s plenty of responsibility to be shared by a lot of folks here. What do you say to the Legislature? What can we do
to help you in what you’ve now addressed as your
number one issue for the last two years? What do you
need from the Legislature to do this, to undo what
has been done and where we want to head to?
ATTORNEY GENERAL FARMER: Well, I think a
year ago when I testified at my budget hearings, I
opposed at that time codification of the reforms for
a couple of reasons. One, they were embodied in a
consent order so they had the force of law. But more
importantly, we needed to find out what worked before
we codified. I think if the Legislature were to move
in any direction immediately, I would suggest that
you codify and clarify the lines of responsibility
with respect to the Office of State Police Affairs
and my office.
SENATOR MATHEUSSEN: And have you issued a
report on that codification?
ATTORNEY GENERAL FARMER: No, I have not.
SENATOR MATHEUSSEN: Would you --
ATTORNEY GENERAL FARMER: I’d be happy to
work with you though on developing some kind of
proposal along those lines. The Office has proven
invaluable in attempting to build a bridge between my
office and the Division of State Police and I think
it’s really the key to the future of this

relationhips.
SENATOR MATHEUSSEN: Whether through me or
through any of the other 119 members of the
Legislature, I’m sure that we all would be willing to
work with you and accept your offer to work with you
on codification. So please accept that as our
invitation to find out more about that.
What else besides the codification,
General?
ATTORNEY GENERAL FARMER: You know, I’ve
seen the various proposals that are out there. I
think one thing that’s absolutely essential that it
occur, and this doesn’t pertain strictly to State
Police, I believe there should be cameras in every
police car in the state. I think a law ought to be
passed that provides for that. It’s good law
enforcement. It’s also -- it’s also a form of
property tax relief to the extent that some towns
have already spent property tax money to put these
cameras in their cars. The cameras in the cars are
absolutely crucial to getting to where I think we
need to be which is to evaluate these cases on an
individual basis. Because with the cameras in the
cars, you have -- you have proof where you never had
it before. Where before you just had, you know, one
person’s word against another, the cameras give you a window into what really goes on. And that’s what we’re finding to be so valuable in this management inquiry that we’re doing now.

SENATOR MATHEUSSEN: The reforms that you talked about in your opening statement, the computerization, the request of detail that is now required in every stop, has that transcended down to county and local police departments?

ATTORNEY GENERAL FARMER: I don’t know the answer to that question. I think we’re probably doing more than most, but I don’t know. I think there’s quite a bit of variance among local and municipal police departments. That’s something that I should look at.

SENATOR MATHEUSSEN: As chief law enforcement officer of the State, do you think it’s appropriate that all Departments act in uniformity, regardless of whether they’re the local PD or the State Police? Do you work in uniformity with regard to these standards?

ATTORNEY GENERAL FARMER: I’m not sure, because, you know, the State Police have a unique mission as a highway patrol in the state and I’m not sure that with respect to local police departments that you would need to require as much of them because they don’t do as much of the road type work that the State Police does. To the extent that you have a road-intensive police department, I think they should look at doing something like what we’ve done.

SENATOR MATHEUSSEN: But certainly there are stops that are made by county officers and local officers that would be using the same profiling tactics, whether they’re on the highway or they’re on the street as pedestrians. You don’t think that’s an important element to include in all departments?

ATTORNEY GENERAL FARMER: Frankly, that’s the reason I think that they should all have cameras in their cars. I’m just not sure beyond that whether towns should incur the cost of computerization that we’re incurring and require the level of reporting that we’re requiring.

SENATOR MATHEUSSEN: Well, I’m not so sure that the municipalities would disagree with you. They shouldn’t probably incur the cost. I think that would be a cost that they would look for the State to absorb but, quite frankly, it sounds to me like this is the grounds for a very short debate because it would seem to me that uniformity in treating the community at large is more important than the cost
that we have to concern ourselves with right now.

ATTORNEY GENERAL FARMER: If it could be
done economically, I would support it.

SENATOR MATHEUSSEN: I’m asking if you
would as a chief law enforcement officer look into
that and report back to this Committee --

ATTORNEY GENERAL FARMER: Sure.

SENATOR MATHEUSSEN: -- of your results to
make that a uniform practice throughout the state.

Is there anything else, General, that you
would like to add in painting this picture of how we
wrestle with the issue of profiling?

ATTORNEY GENERAL FARMER: Not at this time,

no.

SENATOR MATHEUSSEN: One last question.

Yesterday First Assistant I guess it is --

ATTORNEY GENERAL FARMER: Yes.

SENATOR MATHEUSSEN: -- Attorney General
Zoubek appeared before us and indicated that there
was an RFP out regarding doing a statistical base
analysis of stops, consent searches, speed searches.
Where are we with that RFP and can you please tell us
when it’s going to be completed?

ATTORNEY GENERAL FARMER: What he is
referring to there is what I’ve referred to

as a partial violator survey. And what it involves
is basically the taking through a high-speed, high-
tech camera that is incredibly accurate, pictures of
cars as they drive by. It’s being done at 14
different locations throughout the state. The RFP
has already come back. We’ve actually started the
actual work. I don’t know how long it’s going to
take to complete it. What we’re hoping to get is a
snapshot, so to speak, of if there are any
differences, based on race or ethnicity among the
driving population, of speeds.

SENATOR MATHEUSSEN: Nothing further.

SENATOR GORMLEY: Senator O’Connor.

SENATOR O’CONNOR: Thank you, Mr. Chairman.

General, good morning.

ATTORNEY GENERAL FARMER: Good morning.

SENATOR O’CONNOR: It’s good to see you.

I think that there is a feeling around this

table that had you been at the helm back when this
all started, we wouldn’t be here today having the
hearings. But in any event, I’d like to ask you a
few questions just to follow up.

This class that is graduating today, are
there minority members in the class?

ATTORNEY GENERAL FARMER: Yes.
SENATOR O’CONNOR: And I know that there’s been some effort made to recruit minorities. Would you care to comment on that?

ATTORNEY GENERAL FARMER: Yes. We have -- we have tripled the budget for recruiting and have been attempting to diversify. We entered into a consent decree with the NAACP last -- I think February, February of the year 2000, in which we set forth our goals with respect to recruiting.

Diversity is our goal. We have obviously not gotten there yet. I think the current class is a little bit under 20 percent minority which is not where we want to be. But, you know, frankly, this is an issue that Departments around the country have been struggling with and I believe Portland, Oregon recently dropped its four-year degree requirement because of the difficulty they were having in attracting qualified women and minorities to the police department.

I think we’ve done quite well given the struggles that every Department around the country has been having. But we can do better.

SENATOR O’CONNOR: What was your goal in terms of minority representation for this class?

ATTORNEY GENERAL FARMER: Well, obviously we want to stay away from unconstitutional quotas.

So what we agreed with the NAACP is that we would have a target of 30 percent minority and women entering the pool to take the test. In other words, so that there would be a screening process after the quota and our feeling was that that process would be constitutional as opposed to setting an absolute number.

SENATOR O’CONNOR: How many classes have there been since you became Attorney General of the State Police?

ATTORNEY GENERAL FARMER: This is the second. But they’re smaller classes. I don’t want to mislead you. There will be five graduating in the next two months. We’ve changed the way that the Academy is structured so that the classes aren’t as large as they were. We’ve gone to an adult base learning curriculum that’s used by the Royal Canadian Mounted Police, among others, and found them to be very effective. So the class sizes are smaller. It’s still the same essentials that are being taught, but they’re being taught in a different way. And as I said, there will be three more classes graduating in the next few weeks. So it’s a very positive development and we have another series of classes coming this summer.
SENATOR O’CONNOR: How have the minority numbers shaped up in the two -- well, you said there are since you became, and then there are three more coming onboard.

ATTORNEY GENERAL FARMER: Gradually, I don’t have the exact numbers, but there is gradual increase representation in the subsequent classes.

SENATOR O’CONNOR: Okay. And how about the numbers of NCO’s and officers in the State Police ranks? How are they in terms of minority representation?

ATTORNEY GENERAL FARMER: I don’t know numbers, but I’ll get them for you.

SENATOR O’CONNOR: The studies that you did on the numbers of stops and consent searches, et cetera, was there any breakdown in terms of the numbers as they were done by minority troopers?

ATTORNEY GENERAL FARMER: No. No.

Interestingly though, the Justice Department survey that I talked about basically found no difference with respect to the race of the officer, which I guess is consistent with what they found several years ago in New Jersey. But we did not do that, no.

SENATOR O’CONNOR: Now, you talked originally about there being some resistance, both within the State Police ranks as well as in the Office of the Attorney General, even in light of what appeared to be, you know, very, very convincing numbers that indicated that racial profiling was going on. How, now that you’ve made the efforts that you’ve described for us, how has the morale been in the State Police and in the Attorney General’s Office?

ATTORNEY GENERAL FARMER: I think the morale in the State Police is low. It’s been low for a couple years. It’s going to take a while to turn it around because we’re going through a period of really convulsive change. But what’s really impressed me is that the cooperation with respect to getting these reforms done does not seem to have been affected by the low morale. We have had cooperation from the State Police, not just from Colonel Dunbar, but from the people around him and I’m very gratified by that.

SENATOR O’CONNOR: You mentioned before that the people that have been identified as having been offenders in terms of racial profiling have been pretty much identified and you talked about in terms of disciplinary proceedings, perhaps suspension of these people until the disciplinary matter is
resolved, is there anything that’s anticipated in the
way of retraining for these people? Assuming that --

ATTORNEY GENERAL FARMER: Actually the --
the way the consent decree treats problematic conduct
is, and what we’re trying to get to with this MAP
system that we’re putting in place, is a system that
we can identify problems in their incipient stages so
that we can intervene very early on in a trooper’s
career if he seems to be going down the wrong path
and effect that retraining. That is what -- that is
what the consent decree contemplates. To the extent
that you have people who, you know, who may be more
serious offenders, obviously, you know, disciplinary
steps will have to be taken.

SENATOR O’CONNOR: You’ve given us the
statistics which indicate that racial profiling is
not unique to New Jersey, it’s pretty much a national
problem. And I’m wondering, do you have any
statistics as to how this problem evidences itself in
other law enforcement agencies around the State of
New Jersey; local level, county level, et cetera?

ATTORNEY GENERAL FARMER: I’m aware of
other State Police forces that are encountering this
problem. I think in Texas they’re encountering the
problem. North Carolina is actually doing a Justice

Department funded violator survey similar to the one
that we’re now doing. You know, I go occasionally to
meetings of the National Association of Attorneys
General and basically everyone is asking us what they
should do. We met last month in Washington and I met
with Attorney General Ashcroft at the time. And the
two of us went out and spoke to the other 49
Attorneys General about this issue and we are looked
to as the cutting edge jurisdiction with respect to
this issue. But it is coming up in multiple
jurisdictions.

SENATOR O’CONNOR: I’ve been told that, you
know, what we know of racial profiling is really the
tip of the iceberg in that I mean it goes on in a
variety of things, you know, not the least of which
are airports and, you know. Do you have any
statistics or any evidence of any of that?

ATTORNEY GENERAL FARMER: Airports? Well,
I can tell you that one of the problems that I’ve
alluded to was the problems in the case law and one
of the cases that is cited frequently by law
enforcement when I have spoken to them is a case from
the 8th Circuit, United States v. Weaver. In that
case a young black male was arrested coming off a
flight from Los Angeles to Kansas City and the DEA
agent testified that the reason that he absolutely took his race into account because he had information that young black males from California were carrying dope into Kansas City. And the 8th Circuit basically said look, it’s an unpleasant fact of life, but that was good information and this arrest was valid. And, you know, what we’ve been confronted with with the State Police is you have case law that upholds that kind of conduct and arguably that’s what the State Police police have been doing, using the drug courier profiles. It’s legitimate information. It usually has to do with people coming, you know, from the South with drugs or from the North with money. And the real question is not a legal question, it’s a policy question. The policy question is is it worth it? Is it worth it to pursue those practices when your success rates are so low? When you have a success rate with Hispanics of five percent, is it worth the civil liberties angst that you incur by tossing all those cars and finding nothing? And we’ve answered the question, no, it’s not. And the measures we’re trying to put in place are measures that will stop that practice in the future.

SENATOR O’CONNOR: You said that you came very close to issuing a directive saying that there would be no more consent to search in New Jersey. You backed off that. Is that something that you’re sort of reserving your decision on or what?

ATTORNEY GENERAL FARMER: No, I’m persuaded that you can’t take that away from the police. It’s a valuable law enforcement tool. I mentioned the case of a terrorist going to New York, if they’re forbidden from asking for consent, that person gets into New York and a lot of people get killed. So it’s a valuable law enforcement technique. What we have to make sure is that it’s used judiciously on the roads.

And the other thing, it’s always of paramount concern and something that we have to emphasize is, you know, if you make a decision like that and you say you can’t ask for consent to search, maybe you make the officers hesitant to act. Maybe when they have something in their mind that this doesn’t look right, maybe they’re afraid to act and maybe someone gets hurt. Maybe an officer gets shot. And you can’t -- you absolutely can’t afford that. We’ve made that clear with the Justice Department in our negotiations, that our primary concern was that whatever we do in this way, does not jeopardize officer safety because that’s simply unacceptable.
And the Justice Department frankly was very flexible in that regard.

SENATOR O’CONNOR: Thank you very much, General.

SENATOR GORMLEY: Senator Zane.

SENATOR ZANE: General, I recognize that you were saying that we have a lot to do and I recognize that you are telling us a number of things that you, in concert with others, have suggested that begun and I’m not critical of any of those things that you’re suggesting. And I compliment you for them. However, you as the chief law enforcement officer, really the head of the State Police and the Attorney General’s Office, how do you explain why it’s happening?

ATTORNEY GENERAL FARMER: That’s a tough one. I think there are a myriad of reasons and I say that because — frankly, because we have that information now. I’ve had the opportunity to view some of these videos and, you know, I viewed one video that did not seem to be malicious conduct at all, but the reality of the video was that a black driver was pulled over. Wasn’t speeding. He was in the left-hand lane. And he ultimately was given a ticket for having an odor -- an air freshener hanging from the rear-view mirror. Hard to account for that. I’ve seen other video tapes that are more disturbing than that where a carload of Hispanic drivers was detained on the side of the road for over an hour. Where obscenities were used. Where ultimately consent to search was given by the Hispanic driver and nothing was found. And I think you’re dealing with two different — you’re dealing with two different troopers in those situations. I would say that the second one is a lot more problematic than the first. The first may simply be someone who needs sensitivity training. The second one may be somebody who needs to be terminated. I can’t account for why. In fact, one of the reasons I did consider basically directing that no more consent searches happen is, given all the publicity that’s occurred over the last few years over this issue, I can’t account for why some of this is still going on other than perhaps a belief that no one is going to look. And that’s simply not going to be true anymore.

SENATOR ZANE: General, I asked the former Attorney General what he thought were the three most important issues that he faced and he put racial profiling as number one. Do you have the same view as to where your efforts have been directed to be,
the most significant issue that you dealt with?
ATTORNEY GENERAL FARMER: I would say so,
yeah, because it so directly affects public
confidence in government. The contact, the
interaction between the public and the police is the
most basic interaction there is and if the public
doesn’t have confidence in that interaction, you
know, you have a problem.

SENATOR ZANE: I think the obvious thing
you think of when you see these numbers, and the
numbers are still reflective of the same kind of
numbers that we saw in 1995 and 1996, would you agree
with that?
ATTORNEY GENERAL FARMER: They are a little
bit lower but --
SENATOR ZANE: I understand.
ATTORNEY GENERAL FARMER: -- ball park,
yes.

SENATOR ZANE: Yeah. And I think the
obvious thing you think of is prejudice. Sometimes
in my mind I guess I balance that against what you
said -- and we saw figures also in somebody else’s
testimony beforehand that the number of minority
troopers stopped the same proportion of black
troopers as did white troopers. I don’t think that
totally dispels the issue of prejudice, but it makes
one wonder.

ATTORNEY GENERAL FARMER: Well, it could be
prejudice harbored by law enforcement regardless of
race.

SENATOR ZANE: Okay.
ATTORNEY GENERAL FARMER: As to who the
likely offenders are.

SENATOR ZANE: And you can put all the
bells and whistles and TV cameras and everything else
in a car to record all this, but don’t you have to do
something with that very basic problem somehow?

ATTORNEY GENERAL FARMER: Well, we
obviously try to address that through training and
the training is as the Monitors notice, state of the
art. But you’re right, I mean ultimately it gets
down to the individual officer on the road vested
with discretion by virtue of his training and his
badge. And we’ve got to make sure that those people
have the best training and that if they have
attitudes that are nefarious, that we root them out.
But it’s a tough issue because I mean this
Legislature just last year passed the primary
seatbelt law, largely based on information that black
males are more than twice as likely not to wear their
seatbelts and that was a position that was endorsed
by the Council of Ministers and Reginald Jackson.
But what is that going to result in if it’s enforced
evenhandedly? If the truth is that young black males
are more likely not to wear seatbelts, that means
they’re going to be ticketed more under that law.

Does that mean -- does that mean that law enforcement
is prejudiced then? These are tough issues and I
think not enough attention has been paid to the
consequences of passing bills like that. I know in
Massachusetts they didn’t pass the primary seatbelt
law for exactly that reason, that it would result in
a disproportionate number of tickets being given to
young black males not wearing seatbelts.
But I don’t think we can turn a blind eye
to those realities and ask, you know, not ask those
questions.

SENATOR ZANE: How do you differentiate the
numbers out of Newark versus the numbers of Cranbury
and even further down in Moorestown? What do you
think the difference is?
ATTORNEY GENERAL FARMER: I don’t know.

SENATOR ZANE: I mean you’re doing the same
thing in all three places now, am I correct?
ATTORNEY GENERAL FARMER: Yes. Yes.

Although I have to tell you, to date we’re working
our way north. We’ve done Moorestown. We’re doing
Cranbury. We’ll ultimately do Newark. But I can’t
account for the difference, why Newark seems to be
more in line with where you’d expect it to be. What
I’ve heard is it’s a busier roadway. So there isn’t
as much free time, so to speak.

SENATOR ZANE: But the numbers -- but the
numbers in the north were essentially the same as the
numbers in the south, ’95, ’96, ’97 and ’98, correct?
ATTORNEY GENERAL FARMER: You know, I don’t
know that. I’m not sure.

SENATOR ZANE: I think they were.

When you say that the morale is low among
the state troopers, how is that reflecting itself?
What are you seeing that tells you that?
ATTORNEY GENERAL FARMER: You know, I don’t
know that it’s manifested itself in conduct
necessarily, but you hear it. You know, when I go
around and speak to various groups and there are
troopers there, you know, they’ll tell me and you
hear it from troopers at work that morale is low and,
you know, people -- I think there is a sense that
we’re on the right path but, you know, it’s tough for
any Agency to take that kind of publicity that it’s
taken for several years now and not for it to have
some effect on people’s general satisfaction at work.

SENATOR ZANE: Thank you.
SENATOR GORMLEY: Senator Girgenti.
SENATOR GIRGENTI: Thank you very much.
Good morning, General.
ATTORNEY GENERAL FARMER: Good morning.
SENATOR GIRGENTI: General, you know, you
gave a very good presentation earlier in terms of an
update, but some of these questions I had thought
about on the way down and I may be overlapping some
of the things you may have said, but I think it’s
important for the record to get them out.
You know, what has struck me in all the
testimony we’ve heard so far is almost the complete
lack of empathy for the rights of the public in the
past. Everyone was more worried about, quite frankly
from my opinion, CYA; cover yourself. As AG of this
state, you are also the public advocate, in my
opinion, because we no longer have a public advocate.
So that role would fall within your offices. Can you
tell me how policies and practices are different than
what I have just described in terms of lack of
empathy, CYA, under your administration now?
ATTORNEY GENERAL FARMER: Well, I think the
key to addressing the CYA issue is something that’s I
think endemic to any bureaucracy. And the key is to
have the right structure in place so that the
confusion doesn’t result and I think the CYA
mentality takes root really where there’s, you know, a lack of clear direction in the hierarchy and, you
know, I think by creating the Office of the State
Police Affairs we’ve tried to address that and by
surrounding myself with people who I, you know, who
are candid to the point of being blunt with me, I’m
hoping that that message gets down that that’s
something that I value and I want people to tell me
the unpleasant news.

SENATOR GIRGENTI: All right. Well, you
know, this is not a reflection on you. You happen to
be here now, but I’m talking about the history
leading up to this point.
ATTORNEY GENERAL FARMER: Right.
SENATOR GIRGENTI: I know that you are
making positive strides, I just hope you will
continue to.
I don’t know if it’s intentional, you know, from
again the testimony leading up to this point,
everyone seems to be working in isolation. You know,
we were talking about different individuals in the
bureaucracy you just mentioned. Very little
communication. People not knowing who is supervising
who we’ve heard. I don’t know if you’ve been paying
attention to the testimony. What communication
mechanisms have you put in place to coordinate or
overcome the problems that we’ve seen in this lack of
communication?

ATTORNEY GENERAL FARMER: Well, basically
every communication between my office and State
Police goes through Martin Cronin. And he has a
staff of 20. You know, if you decide to codify his
office, you might want to augment their budget. They
could double in size, I think, and still have plenty
to do. But I think that’s something that did not
exist in the past. A single point of contact for
issues as they arise for the Superintendent, or for
anybody else for that matter. I think that’s the
key. If you have clear lines of communication and
people understand who they’re supposed to be talking
to, that’s a key.

We also put together -- and this was done
by Paul Zoubek really before I arrived, a working
group comprising people from my Administrator’s
Office, from Criminal Justice, from State Police,
State Police Affairs that meets once a week, and

basically keeps tabs on where we are with these
reforms. What’s moving forward. What’s lagging.
Where do we need to push. Who do we need to push.
And I think that’s also been helpful.

SENATOR GIRGENTI: All right. Now, you did
cover some of this, but just as an update now. What
kind of reports do you get in terms of updates and
how often do they come in terms of this racial
profiling issue? Is it something that you go over
weekly? How do you handle this?

ATTORNEY GENERAL FARMER: It varies from
week to week. At least a couple times a week I will
have

a --

SENATOR GIRGENTI: But you have been
focused on this and so you’re --

ATTORNEY GENERAL FARMER: Yes.

SENATOR GIRGENTI: -- getting updates all
the time. And what type of data are we collecting?
Is it just the stops or consent to search? What’s
being collected?

ATTORNEY GENERAL FARMER: It’s very
comprehensive. I mean I know Senator Zane, he’s not
here, but had a question yesterday about are we
collecting data with respect to those who refuse
consent? And the answer to that is yes. We are collecting that data. We have not isolated that data at this point, but I think it’s a valuable thing to do.

We are collecting information, which I went over in my statement, but it’s very comprehensive with respect to every stop and every roadside encounter. And that’s something that’s different and allows us to make the kind of individual assessments that I’ve been talking about.

SENATOR GIRGENTI: All right. And then we kept talking throughout the period up until now about throughout the years there was talk of this violator survey.

ATTORNEY GENERAL FARMER: Yes.

SENATOR GIRGENTI: Now, where are we with it? Did you say you are in the process of doing it or --

ATTORNEY GENERAL FARMER: It’s being conducted, yes.

SENATOR GIRGENTI: Okay.

ATTORNEY GENERAL FARMER: It started a couple of weeks ago. I’m not sure when it will be finished. As I said, it’s these high-tech cameras at 14 different locations. One of the reasons we didn’t announce we were doing it when we started it was we don’t want -- we don’t want people to know that they’re being -- having their picture taken because it might affect their behavior and that will skew the results. But since it’s out, it’s out. And we do have a couple weeks worth of data to work with and I’m not sure exactly, as I’ve said, when it’s going to end. One of the problems in doing a violator survey, frankly, and we did talk about this with the Justice Department when we were negotiating the consent decree, is reliability. How do you know you have a workable result? The Justice Department did not want a violator survey in the consent decree. We were -- we were not sure whether we needed one or not. But when we got the stop numbers at the end of last year, they remained problematic. I decided to go ahead and do it.

SENATOR GIRGENTI: Do other states presently, have you seen background in terms of other states doing these violator surveys or --

ATTORNEY GENERAL FARMER: I know of one in North Carolina, yes. It’s being conducted.

SENATOR GIRGENTI: All right. Another question I have. How are we continuing to conduct drug interdiction on our major highways? How has
Attorney General Farmer: Yes.

Senator Girgenti: Could you --

Attorney General Farmer: We have obviously de-emphasized interdiction as a primary policy goal. We have told troopers that if it’s there, I mean if they have reasonable suspicion, that they should proceed. If they have probable cause, they should proceed. But basically what we have done is we are trying to emphasize longer term investigative interdiction and we have assigned state troopers to each of the 21 county narcotics task forces, which had been curtailed in the past. We think that that’s the level where it’s most appropriate. So the State Police, in other words, would be concentrated at the street level in the counties where the drugs hit and they would have longer term investigative efforts underway to seize larger shipments.

Senator Girgenti: And then just finally, despite the stain on the reputation of the State Police as a result of what’s gone on, it’s important,
pursuit of wrongdoers, but the fact is that that
would encourage just numbers as opposed to what
you’re saying in terms of characteristics that have
heroism and things of that order. So no, I think
that’s a good idea. I had known that there had been
a change. There was a great criticism of the program
a while back and I think you’re on the right track.
Thank you.

ATTORNEY GENERAL FARMER: The award should
be about character, yeah.

SENATOR GORMLEY: Senator Kosco.

SENATOR KOSCO: Thank you, Mr. Chairman.

First of all, a couple comments. There are
a number of reasons why the morality in the police
department is low. I don’t believe it’s simply
because of the racial profiling hearings, but I
believe that the State Police in many instances feel
that they’re not consulted when things are needed.
For example, the problem that you’re going through
with the guns right now. It took a number of years
for the police department, for the State Police to
get new weapons and when they finally did get them,
they didn’t work. And, you know, these are the
things that add up to --

ATTORNEY GENERAL FARMER: No question.

SENIOR KOSCO: -- a whole package of
problems that we experience with the State Police.
A second comment is that you spoke about
the seatbelt law. When that seatbelt law was passed,
the things that you brought up and wanted discussed,
it was passed for a person’s safety reasons and to
help provide safer highways.

ATTORNEY GENERAL FARMER: Exactly.

SENATOR KOSCO: It had nothing to do with
what types of people or who wore seatbelts and who
didn’t wear seatbelts.

ATTORNEY GENERAL FARMER: I think Reverend
Jackson’s position on that was that the safety
concern overrode any concern he might have about
disproportionate arrests. So, you’re right, that was
the predominant concern.

SENATOR KOSCO: Do we know what the policy
is on the states that are surrounding us as it
pertains to consent searches?

ATTORNEY GENERAL FARMER: I don’t know the
extent to which they require what we do, which is
reasonable suspicion. I’m not sure. Some states --
there are a few states that require probable cause
before you do a consent search. Most states require
nothing, because the nature of a consent search is
that you don’t have constitutional grounds to search
the car, so you ask permission. We are -- we are one
of the few states that require reasonable suspicion
and we were the first to go in that direction. I
don’t know what the contiguous states require.

SENATOR KOSCO: During these hearings we’ve
experienced a number of times when people weren’t
quite sure who reported to them. Who was responsible
for what. In one case we had one of the top
officials in the Department said that he didn’t know
that the person that was supposedly handling the
reports going to the Department of Justice worked for
him until he was there for several months. And that
was of deep concern to us. Do you have an
organizational chart in your Department with names of
who’s responsible for what? What their positions
are? And who answers to who?

ATTORNEY GENERAL FARMER: We can provide
that if you’re interested in looking at it. But
basically the Office of State Police Affairs is the
point -- is the point office with respect to all of
those issues now. So there shouldn’t -- that
particular confusion should not arise again.

SENATOR KOSCO: But do you have an
organizational chart so someone can look at it and
say, well this is the Deputy Attorney General that’s
responsible for this reporting. This person is
responsible for providing the information to the
Department of Justice or whoever requests --

ATTORNEY GENERAL FARMER: We can provide
one to you.

SENATOR KOSCO: You do have a chart.

What would you reaction be to establishing
the head of the police, the State Police, as a
Cabinet position?

ATTORNEY GENERAL FARMER: Separate from my
Department?

SENATOR KOSCO: Yeah.

ATTORNEY GENERAL FARMER: I would oppose
that.

(Laughter)

I think it makes very little sense -- you
know, other states -- other states do have a Highway
Patrol that is separate from the Attorney General’s
Office, but in those other states, the Highway Patrol
is a Highway Patrol, and it doesn’t -- the mission
does not have the scope in terms of law enforcement
that our State Police does. In doing that, that I’m
the chief law enforcement officer, I’m supposed to
have the -- functions under me, I think it makes no
SENATOR KOSCO: Well, if we had a situation where the head of the State Police wants to institute a policy and has to go through the Attorney General’s Office in order to get it, and then the buck gets passed, if you will, because I didn’t get the information back. And the Attorney General’s Office says well, I didn’t get the information or I don’t remember seeing that and we constantly don’t know where we can -- we can say well, it’s your Department, why haven’t you made the correction rather than going through a number of cases in order to do it?

ATTORNEY GENERAL FARMER: I think we’ve corrected that. I think we’ve corrected that situation with the Office of State Police Affairs.

SENATOR KOSCO: Is there a specific person in your Department that the head of the State Police goes to now?

ATTORNEY GENERAL FARMER: Yes, it’s Martin Cronin.

SENATOR KOSCO: Thank you.

SENATOR GORMLEY: Senator Robertson.

SENATOR ROBERTSON: Thank you, Mr. Chairman.

Good morning, John.

ATTORNEY GENERAL FARMER: Good morning.

SENATOR ROBERTSON: I was wondering if you could help me by walking through a little bit the steps that resulted in the formulation of these diagnostics? Let me, first of all, say that we’ve had many discussions starting back in 1999 and this Committee and with representatives in the Attorney General’s Office about the need for better management information so that we can draw a conclusion. Obviously, they’re just a starting point, but at least we can draw some conclusions. And even with the former Superintendent of the State Police, Colonel Williams, when he was here, and one of the other troopers, even with what little information we had then based upon our review, I would ask how do you account for these numbers? And in both instances they said I don’t know we explain them. And I think that’s a telling point. And now that we have the consent search numbers and the find rates, because one of the primary things that I’ve been concerned about and I’ve said it on more than one occasion is, that it tells an important story if the find rates
are similar throughout the races or if the white find rate happens to be higher than the black find rate, why then is the suspicion rate three or four times higher if the find rate is similar? And I think that’s an important lesson for everybody to take to heart and to take note of. Especially troopers who don’t feel that they have race hate in their heart when they go out there and do their jobs. And I think that sometimes they do get a bad rap when, in fact, they’re trying to do their jobs as they’ve been trained. So these diagnostics are very important.

So the question is, walk me through again how you came to the point of the development of the diagnostics. Does this flow out of the consent order, for instance?

ATTORNEY GENERAL FARMER: Yes. The consent order basically incorporates by reference or embodies the SOP’s that Mr. Cronin’s office, in consultation with the State Police, developed for roadside stops. And the fundamental change in those SOP’s had to do with the level of detail required. For example, when you ask for consent to search, it’s not enough simply to say well, I had reasonable suspicion. You now have to articulate what exactly was it that made you suspect that something was afoot. And it has to be somehow, it has to be linked to your reason for asking for the search. That information really didn’t exist in prior reports and that’s why we can do the kind of analysis that we’ve done --

SENATOR ROBERTSON: Other than as comments.

ATTORNEY GENERAL FARMER: Right.

SENATOR ROBERTSON: But not in any organized way.

ATTORNEY GENERAL FARMER: But not in any organized way. And that’s enabled us to do the kind of analysis that we demonstrated this morning. And when you couple that kind of data with what you have on videotape, you really are moving toward a system where you can make individual judgments and you’re not going to be really a captive of gross statistics anymore.

To answer your question, the SOP’s, they’re now being used. The provision for the computerization, beginning to put in place this month. The MAP system which will basically be an integration of a trooper’s road record, his Internal Affairs file. Everything will be in one place so you can really start to see trends developing with respect to individual troopers. Video cameras, all of that is embodied in the consent decree.
SENATOR ROBERTSON: And as a manager, do you find this information to be helpful?
ATTORNEY GENERAL FARMER: Terrifically, yes. I mean what I tried to demonstrate this morning with those slides is, we can do a level of analysis that we never could do before and with an assurance of reliability that we never had.

SENATOR ROBERTSON: Now, I know it’s in the nature of the consent order that both parties consent, but is there anything in the nature of that consent order that’s required -- that requires something of New Jersey that is really undesirable in your opinion?
ATTORNEY GENERAL FARMER: I don’t think so.
SENATOR ROBERTSON: All right. I have to ask this question. Given the fact that there’s nothing in the consent order that’s really undesirable, given the fact that the methodologies that are embodied in the consent order are extremely useful to you, given that this is such an important and brush-fire issue, why then -- and you were around in your prior incumbency as Governor’s counsel --
ATTORNEY GENERAL FARMER: That’s correct.
SENATOR ROBERTSON: -- why did it take the threat of a consent order or the filing of a suit or

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a shooting incident on the Turnpike before we really moved into the development of these sort of tools?
ATTORNEY GENERAL FARMER: I don’t have an answer to that question. I don’t think anyone really does. I think everybody regrets it. My Department has, for quite some time now, acknowledged that we didn’t act fast enough. And I think it’s something that we all regret. I don’t have a good answer to that question.

SENATOR ROBERTSON: Is it fair to say, and I’m asking this to you as an attorney as well as Attorney General, isn’t it a fair statement to think that when you’re in an environment, legal environment, which concentrates on statistics, that you are well advised to use the absolute best statistics and the most -- well, that you’re well advised to use the best statistics available to you at any given time?
ATTORNEY GENERAL FARMER: Yes, I would say so.

SENATOR ROBERTSON: Do you have any knowledge or can think of any reason why when the existence of some statistics was known to people in the hierarchy of your Department, not when you were there but in the previous administration, why those
statistics would have been -- were not marshaled or would have been ignored?

ATTORNEY GENERAL FARMER: No.

SENATOR ROBERTSON: When you developed your methodologies, because one of the things that I’m concerned about is the same thing that Senator Kosco made reference to, which is the degree to which the state troopers are brought into this process. In speaking to troopers myself, they express a great deal of frustration, as law enforcement personnel would, at being given mixed messages. Not really being sure what they’re supposed to do. Worried about the next Appellate Division decision that comes out and are they going to make a mistake the next day that’s going to cost us an arrest or create problems for them. During the development of these methodologies, have you conducted any line focus groups or anything of that sort that involved on-the-road troopers and their representatives?

ATTORNEY GENERAL FARMER: There’s a -- the SOP’s were actually developed by -- well, largely by troopers, yes. That was not something that was -- one of the issues that we negotiated with the Justice Department about it was -- was exactly that. They had -- they had advanced a proposal, which when we

ran it by troopers, they said it was completely unworkable, and so we said well let us draft an SOP and see if you can live with that. And that’s what we did. In consultation with the State Police, we developed the SOP and Justice signed off.

SENATOR ROBERTSON: But apart from the representatives, did you have any -- I mean you know what a focus group is.

ATTORNEY GENERAL FARMER: Right. Nothing formal like that, no.

SENATOR ROBERTSON: Yeah. Because I mean one of the things that you might want to do as you go along you’re going to be developing these things further, and further SOP’s and whatnot, you know, is ask a group to come in and conduct some sort of line focus groups where troopers don’t have to worry about being identified or worry about what they’re saying and can give you some idea of what it’s like to be out on the road today. I mean the representatives, obviously, are very good and many of them -- some of them are out on the road and some aren’t but, you know, perhaps you can get a cross-section. It’s just a suggestion.

A question was asked a little earlier, and I just want to go back to is, as to whether or not
data was broken down by minority versus non-minority troopers. You indicated that you had not yet done that. Do you have any --

ATTORNEY GENERAL FARMER: Certainly -- we’re certainly capable of doing it, but it hasn’t been a focus.

SENATOR ROBERTSON: Okay. Well, the only reason I come back to it is because one of the things that struck all of us, I think, when we took a look at what little statistics were available, is that there wasn’t a huge difference between minority troopers and non-minority troopers with respect to the -- I’m going to use the suspicion rate, when it came to consent searches. And I think therein lies an important lesson, you see. Because I think one of the things that we’re seeing as we’re trying to figure out these numbers and, you know, more than one person has sat in that chair and said I don’t know how to explain these numbers because we know we’re doing everything we can. I mean it’s interesting to hear you saying it now because you know you’re trying everything you can. And you know that people are going forward in good faith. And if we asked the Monitors, they would say the same sorts of things. Well, a lot of the troopers have been in that position now for a number of years. They’re saying I’m going out on the road and I’m trying to do my job, but I know in my heart that I’m not segregating, you know, people according to race in terms of the way I do my job. And one of the numbers that would tend to bolster that understanding is whether or not there is a difference between minority troopers and non-minority troopers. So I would simply suggest to you that it might be a good idea to do that, not because we want to be overly race conscious with respect to who does what, but because therein lies an important lesson as well. Because in my opinion part of the problem that we have here and one of the explanations for these numbers is the fact that we all carry a certain race consciousness with us that will have an effect on the various decisions that we make or the perceptions that we have. So I would just encourage that.

I have no other questions. Thank you, General.

SENATOR GORMLEY: Senator Lynch.

SENATOR LYNCH: General, good morning.

ATTORNEY GENERAL FARMER: Good morning.

SENATOR LYNCH: Starting with your earlier testimony related to the Troop D consent searches for
the year 2000. The compilation, this compilation was
done when?

ATTORNEY GENERAL FARMER: It was done in
the last couple of months. The stop numbers came in
early January. And then I at that point ordered this
management inquiry to take place.

SENATOR LYNCH: Did you ever do this in the
year 2000 for 1999?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: Wasn’t there some kind of a
commitment made to the public, the press and maybe to
us back in 1999 that you were going to make periodic
portrayals of stop-and-search data?

ATTORNEY GENERAL FARMER: Well, we had
released stop-and-search data, but we hadn’t done the
kind of analysis that’s reflected in these charts.
We did release data last year, but not with this
level of analysis attached to it.

SENATOR LYNCH: From what I’ve heard here
today and what we’ve heard before, there’s no reason
why the same kind of analysis couldn’t have been done
back in ‘95 or ‘96 or ‘97 or ‘98 or ‘99?

ATTORNEY GENERAL FARMER: Actually there
is.

SENATOR LYNCH: What’s that?

ATTORNEY GENERAL FARMER: Because when you
go back to ‘95, ‘96, the written reports it required
really you would not have been able to tell whether
the officer’s actions were grounded in probable cause
or reasonable suspicion.

SENATOR LYNCH: The consent-to-search forms
are very detailed. As a matter of fact, they haven’t
even changed.

ATTORNEY GENERAL FARMER: No, the reports
that I’m talking about, you really --

SENATOR LYNCH: I’m talking about regarding
consent to search. There’s nothing in this report
that you gave here today involving consent to search
that couldn’t have been retrieved and put together

ATTORNEY GENERAL FARMER: It would have
taken -- it would have taken more effort than it does
now.

SENATOR LYNCH: Because of your new
systems?

ATTORNEY GENERAL FARMER: Yes.

SENATOR LYNCH: But we’ve seen from
Sergeant Gilbert that that effort didn’t take a long
time in putting these together, did it?

ATTORNEY GENERAL FARMER: I don’t know how
long it took him to do it.

SENATOR LYNCH: So the answer to the question is, it could have been done in '99. It could have been done in '98. It could have been done in '97. It could have been done in '96. It could have been done in '95, correct?

ATTORNEY GENERAL FARMER: It could have been done, yes.

SENATOR LYNCH: Yeah. There’s a -- I don’t know, I’ve been out of law school too long and maybe out of the practice too long, but there’s a principle in the law about risk utility. It seems to me the consent to searches falls into the category of weighing this on a risk utility basis and I think you alluded to something similar to that earlier. And the risk here is trampling on people’s rights. And the utility is what are you getting out of it. And forgetting the fact that you have all this compilation of stops and searches and so forth and so on, in the consent to search category, what are you retrieving in terms of contraband out of these consent to searches and have you -- do you have any analysis of that?

ATTORNEY GENERAL FARMER: Yeah. I don’t have it with me, but I can provide it to you. The general answer is, is very little.

SENATOR LYNCH: So we have a risk of trampling on people’s rights with Latinos at 95 percent.

ATTORNEY GENERAL FARMER: Ninety-five percent, yes.

SENATOR LYNCH: Blacks at --

ATTORNEY GENERAL FARMER: Eighty-seven percent.

SENATOR LYNCH: -- 87 percent. And whites at?

ATTORNEY GENERAL FARMER: Seventy-five percent.

SENATOR LYNCH: And we’re getting little out of it.

ATTORNEY GENERAL FARMER: That’s correct.

The problem with that --

SENATOR LYNCH: Why do we still have consent to search if, in fact, people’s rights are getting trampled on and we’re getting little out of it?

ATTORNEY GENERAL FARMER: I think the answer to that, Senator, is you don’t always get little out of it. I alluded to the case, the federal case from a few years ago where a potential terrorist
was stopped on his way to New York City and via
consent search they discovered the explosives in his
trunk. If you --

SENATOR LYNCH: A potential terrorist
signed a -- voluntarily signed a consent to search
form?

ATTORNEY GENERAL FARMER: I believe so,
yes.

SENATOR LYNCH: And that isolated case
rationalizes for you that the risks involved outweigh
the -- the utility here outweighs the risk?

ATTORNEY GENERAL FARMER: I think you have
to do it right. I think it would be a mistake to
take that tool away from law enforcement and
obviously we haven’t been doing it right.

SENATOR LYNCH: There’s another reason why
this is accomplished, is it not, and that is the
forfeitures that occur out of this process?

ATTORNEY GENERAL FARMER: That’s one of the
-- one of the byproducts of interdiction has been
forfeitures.

SENATOR LYNCH: So that anyone who has
signed a consent to search form and would have a
positive finding, their vehicle and its contents and
what’s on them in terms of cash, jewelry, et cetera

is confiscated?

ATTORNEY GENERAL FARMER: Potentially
subject to forfeiture, that’s correct.

SENATOR LYNCH: And if they’re found guilty
or if they sign -- if they plead guilty even to a
lesser offense, then in most cases it is forfeited.

ATTORNEY GENERAL FARMER: That’s true. I
should tell you that the forfeiture numbers have
dropped, have, in fact, plummeted in the last few
years because the number of consent searches has
declined.

SENATOR LYNCH: But the point is, one of
the things that was driving consent to search was the
fact that the State Police, through the policy set by
the Attorney General, were budgeting based upon
forfeiture funds.

ATTORNEY GENERAL FARMER: I don’t know that
to be true.

SENATOR LYNCH: And that that number
reached as high as $8 million, correct?

ATTORNEY GENERAL FARMER: I’ve heard that
number.

SENATOR LYNCH: And have you also heard
that the -- and you know there’s a reporting
requirement to the Legislature every six months on
the use of these forfeiture funds, et cetera --
ATTORNEY GENERAL FARMER: That’s correct.
SENATOR LYNCH: -- and did you also hear
that in terms of that reporting requirement, that at
one point in time the Office of Attorney General was
having the Superintendent of State Police sign those
reporting forms and somewhere around 1985 -- 1996 or
‘97, someone on Williams’ staff figured out that the
reporting wasn’t accurate and they refused to sign
those forms and the Attorney General’s Office took
back the reporting?
ATTORNEY GENERAL FARMER: I had not heard
that.
SENATOR LYNCH: And who was responsible in
your office for that reporting?
ATTORNEY GENERAL FARMER: Who in my office
today? It’s put together by my administrative staff.
SENATOR LYNCH: Mr. O’Reilly?
ATTORNEY GENERAL FARMER: Tom O’Reilly is
the head of that, yes.
SENATOR LYNCH: And he was the head of that
back in 1985 as well?
ATTORNEY GENERAL FARMER: I don’t know if
he went back that far. He may have been the

SENATOR LYNCH: And Herb Clark works for
him?
ATTORNEY GENERAL FARMER: I don’t know
Herb.
SENATOR LYNCH: You don’t know.
ATTORNEY GENERAL FARMER: No.
SENATOR LYNCH: He’s in a report we
referred to yesterday. My understanding is he was
the financial officer of the State Police, retired.
Went over to the Attorney General’s Office.
You’re not familiar with the fact that
there may have been misreporting to the Legislature
on the use of those forfeiture funds?
ATTORNEY GENERAL FARMER: No, I’m not.
SENATOR LYNCH: Have you ever looked at any
of those reports?
ATTORNEY GENERAL FARMER: I have perused
the reports, yes.
SENATOR LYNCH: Have you seen in the
reports or in any documents surrounding forfeitures,
that they give projections of what they expect to
receive by way of forfeiture for the following
several years?
ATTORNEY GENERAL FARMER: I don’t recall
seeing that.
SENATOR LYNCH: Is that based upon what’s contained in the vault in Trenton where you keep cash and jewelry and cell phones and cameras and all that stuff?

ATTORNEY GENERAL FARMER: I don’t know.

SENATOR LYNCH: Do you have an inventory of that?

ATTORNEY GENERAL FARMER: I don’t know.

SENATOR LYNCH: The point is, it appears as if there was at least a point in time a bounty system structured. You’ve got to go chase these funds to support your budge and, therefore, you have -- one of the byproducts of that is you have an enormous number of searches with little utility and trampling on people’s rights, yielding a few million dollars a year to subsidize a budget. Someone looking from afar could make that assessment, couldn’t they?

ATTORNEY GENERAL FARMER: I don’t know if it’s -- I don’t know if it’s accurate to make that assessment. I mean you could certainly say that the aggressive interdiction program did generate forfeiture revenue.

SENATOR LYNCH: Did you ever consider that?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: Is it possible for your office to put together an analysis and compilation of the amount and value of contraband from consent to searches versus probable cause searches?

ATTORNEY GENERAL FARMER: We can do that.

SENATOR LYNCH: On a year-to-year basis?

ATTORNEY GENERAL FARMER: We can do that.

SENATOR LYNCH: I think that would be helpful, and again going back to the risk utility analogy. You were nominated by Governor Whitman, then Governor Whitman, on the same day that -- to be Attorney General, on the same day that Peter Verniero was nominated to be a Justice of the Supreme Court.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR LYNCH: And that was February 23rd or something?

ATTORNEY GENERAL FARMER: Something like that.

SENATOR LYNCH: At that time, what was your job?

ATTORNEY GENERAL FARMER: I was chief counsel for the Governor.

SENATOR LYNCH: And how long had you been chief counsel?

ATTORNEY GENERAL FARMER: Since the prior January; January ’98.
SENATOR LYNCH: And prior to that you were?
ATTORNEY GENERAL FARMER: I was deputy chief counsel.
SENATOR LYNCH: For how long?
ATTORNEY GENERAL FARMER: A year and a half.
SENATOR LYNCH: Starting when?
ATTORNEY GENERAL FARMER: Starting when Harry Durman became Chief of Staff and Mike Torpe (sic) went over to chief counsel, I became his deputy.
SENATOR LYNCH: So that would have been in ‘96?
ATTORNEY GENERAL FARMER: I think so.
SENATOR LYNCH: And prior to that where were you?
ATTORNEY GENERAL FARMER: Assistant counsel.
Prior to that I was in the U.S. Attorney’s Office.
Prior to that I was in private practice. And prior to that I law clerked. Just to complete the resume’.
ATTORNEY GENERAL FARMER: After you were nominated on or about February 23, 1999 to be the Attorney General, did you embark on a transition period?
ATTORNEY GENERAL FARMER: Yes, I did.

SENATOR LYNCH: And when did that begin?
ATTORNEY GENERAL FARMER: That’s difficult to say. The --
SENATOR LYNCH: Well, when did you begin spending time each week at the Attorney General’s Office?
ATTORNEY GENERAL FARMER: I’d say almost immediately.
SENATOR LYNCH: And where were you physically located when you would go to the Attorney General’s Office every week for a day or two or parts of a day --
ATTORNEY GENERAL FARMER: Different offices.
SENATOR LYNCH: But what did that consist of in say the early part of March 1999?
ATTORNEY GENERAL FARMER: I don’t recall the early part of March per se, but I was meeting with different people in the Department to try to get a sense of the scope of my responsibilities.
SENATOR LYNCH: When did you first learn of the Department of Justice inquiry, or investigation or whatever you want to call it?
ATTORNEY GENERAL FARMER: I believe it was in the days leading up to the law enforcement summit,
which was late -- late ‘98.

SENATOR LYNCH: And how did you --
ATTORNEY GENERAL FARMER: The law
enforcement summit, I believe, in December of ‘98 and
I believe around that time I learned about the --
there was some kind of ongoing relationship with the
Justice Department.

SENATOR LYNCH: How did you learn that?
ATTORNEY GENERAL FARMER: I don’t remember
whether Peter Verniero told me or whether David Hespe
told me.

SENATOR LYNCH: And when you started
visiting the Attorney General’s Office as part of
this transition in the late part of February of 1999
or early March of ‘99, did you make inquiry about the
status of that Department of Justice inquiry or
investigation?
ATTORNEY GENERAL FARMER: Not specifically,
no.

SENATOR LYNCH: When was the first time you
did?
ATTORNEY GENERAL FARMER: I guess the first
collection I had with respect to that was with Paul
Zoubek sometime in April.

SENATOR LYNCH: Do you recall that

conversation?

ATTORNEY GENERAL FARMER: Yes. At the time
it was communicated to us that there was going to be
a report completed with respect to racial profiling
and in the context of that conversation the Justice
Department inquiry was mentioned.

SENATOR LYNCH: Did Mr. Zoubek tell you how
information had been retrieved and forwarded to the
Department of Justice?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: When did you first learn
about that procedure, for lack of a better term?
ATTORNEY GENERAL FARMER: Subsequent to --
well, that’s not true. I was going to say subsequent
to my becoming AG, but I believe I had learned
something about that procedure after the interim
report was out.

SENATOR LYNCH: Was the procedure that you
learned about that we’ve heard this enormous amount
of testimony about troubling to you when you learned
about it?

ATTORNEY GENERAL FARMER: Troubling in what
way? I guess I --

SENATOR LYNCH: Troubling with regard to
the lack of accountability and oversight?
ATTORNEY GENERAL FARMER: Well, it struck me as an extremely informal process, both from our end and from the Justice Department’s end.

SENATOR LYNCH: Let’s just take it from our end, however, for the moment, since there are other obligations that flow from this information that was being retrieved, particularly with regard to discovery in the pending criminal and civil actions. Was that troubling to you?

ATTORNEY GENERAL FARMER: I guess I thought it was unusual, yes.

SENATOR LYNCH: Three words come to mind here in terms of the roles of the Attorney General and the Attorney General’s Office relative to the State Police and they are leadership and accountability and oversight. With all of the hue and cry surrounding the activities and events of the -- from February through June of 1999, with a lot of finger-pointing as to who knew what, when and why, and with indications that people in your office were blaming the State Police for not forwarding information, and with clear indications now that people in your office were saying that Rover didn’t do what he was supposed to do, didn’t you believe that it was incumbent upon you when you were sworn in as Attorney General in early June of 1999 to get to the bottom of who knew what and when? Who was accountable? How do we fix this problem? How could it have ever occurred?

ATTORNEY GENERAL FARMER: I guess the answer to that is yes and no. I mean yes in the sense that I knew we had to move forward. I knew that we -- that we couldn’t stay with the same structure we had in the past. And that’s why the Office of State Police Affairs became so prominent in my thinking, but --

SENATOR LYNCH: How do you ever move forward without finding out how you got to where you’re at?

ATTORNEY GENERAL FARMER: Well, I thought the interim report and the final report that we did was a good -- was a good jumping-off point. As I testified --

SENATOR LYNCH: Does the interim report or the final report lay responsibility on who failed to communicate information to the Attorney General’s Office?

ATTORNEY GENERAL FARMER: No, they do not. No, they don’t.

SENATOR LYNCH: Does it make a
determination as to whether it was the hierarchy in
the State Police that failed in its charge to
communicate this information?
ATTORNEY GENERAL FARMER: Not really, no.
SENATOR LYNCH: Does the interim report say
anything about the failed structure of the Attorney
General’s Office with regard to the retrieval and
forwarding of information to the Department of
Justice?
ATTORNEY GENERAL FARMER: The interim
report does not. The final report though in its
discussion of the Office of State Police Affairs, I
don’t know how explicit it was in criticizing the
entire structure, but by implication. You’re filling
something that wasn’t there before.
SENATOR LYNCH: I’m talking about the
structure inside the Attorney General’s Office where
you have a guy by the name of Rover who’s at ABC and
then in -- and then gets promoted to Gaming
Enforcement in January of ’99. Is reporting to now
Judge Waugh for some period of time. And then if you
want to believe what’s in the record, was reporting
to no one for the next 16 months. Didn’t you find
that in need of accounting for how it got to that
point and how do we make sure in the future nothing
like that can happen again?
ATTORNEY GENERAL FARMER: I think we knew
that that -- I think we knew that that structure
hadn’t worked and that’s why we created the Office of
State Police Affairs so that could not happen again.
SENATOR LYNCH: Hadn’t worked by whose
standards?
ATTORNEY GENERAL FARMER: Well, based on
what occurred.
SENATOR LYNCH: Don’t you think it was
important to the public and to your charge of
responsibility to determine how those things
occurred?
ATTORNEY GENERAL FARMER: No. I think it
was important for the public that they be fixed.
SENATOR LYNCH: How can you fix something
if you don’t know how it occurred?
ATTORNEY GENERAL FARMER: You can fix it if
you know it hasn’t worked and you can think of
something that will. And that’s what we did.
SENATOR LYNCH: You don’t think it was
important for accountability sake and credibility
sake that a determination be made as to whether the
State Police failed to communicate information that
they were charged with the responsibility of
retrieving and sending along?

ATTORNEY GENERAL FARMER: I don’t quite understand the question. Do I think it was important --

SENATOR LYNCH: Well, there’s two clear issues here. One is the Rover structure and the other one is this business that somehow Superintendent Williams and the hierarchy at the State Police didn’t do what they were told, namely to communicate all of this data to the Office of the Attorney General. Clearly that’s still hanging out there, correct?

ATTORNEY GENERAL FARMER: I don’t think so. I mean I --

ATTORNEY GENERAL FARMER: I think the answer is what we’ve done. The answer is what we’ve done to move forward. And we’ve replaced structures that hadn’t worked with structures that are working and, you know, I don’t think it’s appropriate in an issue of this complexity, and I don’t think it’s helpful for my Department, frankly, to -- an atmosphere where State Police and the Attorney General’s Office continue to point fingers at one another. One of the things that I tried to do --

ATTORNEY GENERAL FARMER: I think we’ve acknowledged that there was a lack of accountability and a lack of oversight.

ATTORNEY GENERAL FARMER: I think we’ve acknowledged that there was a lack of accountability and oversight and I think we’ve acknowledged that. And, you know, the information that did come over was acted upon too late. We’ve acknowledged that. I don’t know what more we can do or should do in the way of going back and laying blame when I think the important thing is to marshal our resources so that we can move forward.

ATTORNEY GENERAL FARMER: I think the answer to the question is what we’ve done. The answer is that we’ve done to move forward.

ATTORNEY GENERAL FARMER: The movie or the play?

ATTORNEY GENERAL FARMER: Either one. Yes. Where the line comes in, you know, “Sometimes the past hurts, but you have to deal with it before you can move forward”? Do you think that’s applicable here?

ATTORNEY GENERAL FARMER: I think that’s
what we’re doing.

SENATOR LYNCH: Did you deal with the past?

ATTORNEY GENERAL FARMER: Well, as I said
in my testimony, I tried to repeatedly in the sense
of bringing the Department together. Listening to
people’s views. Listening to people at State Police
who told me that, you know, that the way that the
interim report came out made them look bad. I
listened to our people with their frustration with
the State Police. And I tried repeatedly to address
it. I mean at the retirement banquet last fall, I
basically said look, you know, I acknowledge that my
office bears responsibility for what happened. I
said that --

SENATOR LYNCH: That’s a nice general term,

but --

ATTORNEY GENERAL FARMER: -- seven months
ago.

SENATOR LYNCH: That’s a nice general term
and I don’t mean to interrupt you, but I just want to
talk about some of the things that actually occurred
that point to whether or not, you know, we’re
accepting responsibility without getting to the
facts. And it appears to me that in the context of
what occurred in those early months in 1999 and the

finger-pointing that went on and the need, the crying
need to get answers, that all we got was a bunch of
people wound up getting jobs and promotions. And
that in many of those cases you are involved in those
machinations. Whether it’s the Blaker appointment as
the Assistant -- the Acting Prosecutor in Cape May
after he can’t get through the bar review. Whether
it’s another one that went to the ABC or Roberson’s
brother as the Assistant Commissioner of
Transportation or --

ATTORNEY GENERAL FARMER: I don’t --

SENATOR LYNCH: -- or Brennan becomes a
Major and my understanding is that maybe that wasn’t
through the recommendation of the Superintendent but
through yours, is that correct?

ATTORNEY GENERAL FARMER: Not true.

SENATOR LYNCH: That Fedorko winds up going
to the Casino Control Commission amid some
discussions that brought yourself to come testify to
this Committee about the fact that an Internal
Affairs probe was completed. That Hespe winds up
becoming the Commissioner of Education. That Waugh
becomes a Judge. That Dunlop is offered a
significant job. And by the way, did you offer him a
significant job?
ATTORNEY GENERAL FARMER: I would have, but I didn’t. Let me explain that.

SENATOR LYNCH: Did you discuss it with him?

ATTORNEY GENERAL FARMER: We had lunch after his retirement and the reason was I was not able to make his retirement dinner. I asked him what he was going to do after retirement. Bob Dunlop is considered to be one of the best investigators in the State Police and has been for years. He informed me that he was planning to move to Idaho. And I said well, if you change your mind and decide to stay, you know, we should talk. I have absolutely no compunction about offering someone of his caliber a job. Many of the retired State Police work for my department in other divisions and --

SENATOR LYNCH: Is that a good thing?

ATTORNEY GENERAL FARMER: I think it’s a great thing.

SENATOR LYNCH: I mean where you have oversight responsibility and you have eight to ten people --

ATTORNEY GENERAL FARMER: I think it promotes --

SENATOR LYNCH: -- in administrative positions. Maybe 12 to 15 in investigative positions. Do you think that’s a good thing?

ATTORNEY GENERAL FARMER: I do. I think they have developed invaluable expertise as members of the State Police and we would be foolish as a Department not to take advantage of that.

SENATOR LYNCH: And then, of course, we have George Rover who was promoted a couple months before you got there.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR LYNCH: Did you ever look at that?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: As to how and why?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: Senator O’Connor, I believe, asked you questions surrounding the recruitment practices and I know that you’ve been trying to broaden the scope of attracting candidates and there’s a class graduating today.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR LYNCH: Are you satisfied with the composition of that class; racially, ethnically?

ATTORNEY GENERAL FARMER: I think we need to do better. I don’t recall the precise percentages, but it’s not -- it does not meet the
targets that we set in the consent decree with the
NAACP and I think the -- it’s a difficult issue. I
mean police departments all over the country are
having trouble in this regard and we’re no exception.
I think actually we’re doing better than other --
more than other police departments. But there’s no
question that we need to do more.

SENATOR LYNCH: There was a great deal of
controversy surrounding the 118th class in the
Academy, correct?

ATTORNEY GENERAL FARMER: I believe so,
yes.

SENATOR LYNCH: That’s one where you had to
come in here and clear the record with regard to --

ATTORNEY GENERAL FARMER: Yes.

SENATOR LYNCH: -- candidates who were
admitted at the 11th hour and where Colonel Fedorko
was invoked as maybe having something to do with
getting them admitted at the 11th hour.

ATTORNEY GENERAL FARMER: Yes. I believe I
wrote the Committee a letter. I didn’t testify, I
wrote the Committee a letter summarizing the
findings, yes.

SENATOR LYNCH: Were there findings or was

the fact that he retired did that end the Internal

Affairs investigation?

ATTORNEY GENERAL FARMER: I believe my
letter summarized what the findings were with respect
to his activity.

SENATOR LYNCH: I want to show you a
document regarding a grievance that we received
anonymously, but it seems to be -- it seems to be a
clear copy of what’s in your office and the Office of
State Police. It’s involving a grievance filed by
Sergeant Robert Cipola involving the 118th class.
Are you familiar with that?

ATTORNEY GENERAL FARMER: I’ve heard --
I’ve heard his name, but I don’t know the specifics.

SENATOR LYNCH: Coincidently, he was
originally from New Brunswick, as a matter of fact,
but I have not talked to him nor has anyone on my
staff associated with this and we came by this
anonymously. But it appears to be credible as being
a copy of what’s contained in the Attorney General’s
records and State Police records.

Can we have this marked and a copy given to
the Attorney General and to the members?

MS. GLADING: SJC-14.

SENATOR LYNCH: And you know what? While
maybe some of the members have a chance to peruse
this, can I ask you some questions about finalizing on the consent to search and search issues generally?

ATTORNEY GENERAL FARMER: Sure.

SENATOR LYNCH: There’s a clear distinction in the law between the New Jersey Supreme Court interpretation of the New Jersey Constitution as it relates to the standard of probable cause for search and seizure, correct?

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR LYNCH: From the federal Supreme Court determination of the standard of probable cause in the U.S. Constitution.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR LYNCH: And therefore, when it comes to search and seizure in New Jersey, we follow the higher standard which is the New Jersey Supreme Court interpretation of the New Jersey Constitution.

ATTORNEY GENERAL FARMER: They’ve been very -- they have over time freely interpreted the State Constitution --

SENATOR LYNCH: Right.

ATTORNEY GENERAL FARMER: -- more liberally, yes.

SENATOR LYNCH: But as a practical matter, isn’t that distinction sometimes at the heart of our problem here in terms of why a consent to search is employed? In other words, we have a higher --

ATTORNEY GENERAL FARMER: Well, I think --

SENATOR LYNCH: -- we have a higher probable cause standard in New Jersey which resulted in a lot more cases getting thrown out early on which ultimately led to the, as I would characterize it, the over-utilization of consent to search?

ATTORNEY GENERAL FARMER: That may be.

SENATOR LYNCH: If we had the same standard on the federal -- as we have on the federal side, do you see any need to continue a consent to search program in New Jersey?

ATTORNEY GENERAL FARMER: Well, consent to search I think is what you do when you don’t have --

SENATOR LYNCH: Well, consent to search is founded in something called reasonable suspicion which is --

ATTORNEY GENERAL FARMER: Well, not -- consent to search actually in most states is founded on nothing.

SENATOR LYNCH: I’m talking about New Jersey. I don’t care what they do in Iowa. I care about what we’re doing here in New Jersey. We can do something about it. We can’t do anything about
what’s going on on border states in Texas and California where they have a lot of interdiction and maybe a lot of people’s rights getting trampled on. But we can do something about it in New Jersey. So armed with that, do you think that if we had a more reasonable standard of probable cause for law enforcement, that we would be able to abandon this ruse of a consent to search?

ATTORNEY GENERAL FARMER: I don’t think so. I think in most jurisdictions that do have, which you’re referring to, frequently they ask for consent to search even when there is probable cause as kind of a insurance. Because you’re never quite sure what the courts are going to say and if you have consent, it basically gets you over that issue.

SENATOR LYNCH: But it seems to me somewhat illusory to believe that someone carrying a large amount of contraband is ever going to sign a consent form voluntarily and --

ATTORNEY GENERAL FARMER: It does happen.

SENATOR LYNCH: Huh?

ATTORNEY GENERAL FARMER: It does happen.

SENATOR LYNCH: It happens in one fashion or another. If they had to sign a -- if they first had to sign a form that said if you don’t consent,

we’re not going to search because we don’t have probable cause, it wouldn’t happen, would it?

ATTORNEY GENERAL FARMER: I don’t know.

SENATOR LYNCH: Of course you know.

ATTORNEY GENERAL FARMER: I prosecuted a couple consent cases off the Turnpike when I was in the U.S. Attorney’s Office and they were signed consent forms. So...

SENATOR LYNCH: I’m not saying that they weren’t signed, I’m saying under what guise they were signed. If someone had a Miranda type warning saying hey, look, we don’t have probable cause, but we want to search but we want you to sign this form that says you know we don’t have probable cause and we can’t search your vehicle if you don’t sign this form, do you think people would sign a consent to search?

ATTORNEY GENERAL FARMER: Well, the officers are supposed to advise them that they have the right not to consent to search.

SENATOR LYNCH: No, if you -- I framed it differently. If they were advised that we don’t have probable cause and we therefore can’t search your vehicle unless you sign this form, do you think you’d have anybody signing the form?

ATTORNEY GENERAL FARMER: I think there’s
Supreme Court case law to the effect that they don’t have to it that way.

SENATOR LYNCH: I’m not talking about the Supreme Court, I’m talking about us right here. What makes sense. How do we get rid of this problem where people’s rights are getting trampled on to huge numbers percentage-wise with very little coming back the other way in terms of utility. Do you think under those circumstances that it would make sense to properly advise the motorists?

ATTORNEY GENERAL FARMER: Oh, they should be properly advised, yes.

SENATOR LYNCH: That namely that if you don’t sign this document, we can’t search your vehicle because we don’t have probable cause?

ATTORNEY GENERAL FARMER: With the exception of that last clause. I think that is --

SENATOR LYNCH: Well, why would you not have the last clause, because that would be the truth, wouldn’t it?

ATTORNEY GENERAL FARMER: Yes, it would. In some cases. Some cases they have probable cause and that’s --

SENATOR LYNCH: Well, if they have probable cause, they don’t need his consent to search.

ATTORNEY GENERAL FARMER: Not technically they don’t.

SENATOR LYNCH: Well, not in any way they don’t.

ATTORNEY GENERAL FARMER: Well --

SENATOR LYNCH: They’d have to go to court and sustain it.

ATTORNEY GENERAL FARMER: The problem is that -- that yes, you may believe you have probable cause and find out ultimately that you don’t. And that’s why frequently, even when they have probable cause, they seek to get consent because then they don’t have to deal with that issue in court.

SENATOR LYNCH: I suggest to you the definition of consent in this terminology is much different than the definition of consent in Webster’s Dictionary.

Getting back go the -- what I believe -- has it been marked?

MS. GLADING: Yes.

SENATOR LYNCH: The Cipola grievance.

MS. GLADING: SJC-14.

SENATOR LYNCH: SJC-14.

On Page 4, running page, it’s not numbered, Sergeant Cipola writes to Colonel Dunlop in October
of 1999 asking for the ability to talk to the press
about this incident or his problems, is that correct?

ATTORNEY GENERAL FARMER: It appears to be,
yes.

SENATOR LYNCH: And on Page 3, which is an
October 6th, 1999 response from Lieutenant Colonel
Dunlop, he’s told that that’s not -- that he can’t
unless he can separate out the Internal Affairs
issues and keep them confidential.

Well, regardless of how you characterize
it, getting back to the fourth page, which is the
October 4th, ‘99 --

ATTORNEY GENERAL FARMER: I don’t think
I’ve got that fourth page. I’ve got the letter --

SENATOR LYNCH: It purports to be a -- it’s
dated at the bottom left corner, October 4, 1999.
It’s from Sergeant R. Cipola and it’s to Lieutenant
Colonel R. Dunlop.

ATTORNEY GENERAL FARMER: I go from -- my
Page 4 is Dunlop’s letter to him.

SENATOR LYNCH: Well, they probably put it
in chronological so maybe it’s your Page 3 then.

ATTORNEY GENERAL FARMER: Okay.

SENATOR LYNCH: Do you have that document?

ATTORNEY GENERAL FARMER: Yes.

SENATOR LYNCH: Starting at Paragraph 2 it
says, “I’m also dismayed by the October 2nd, 1999
Star Ledger article in which the Attorney General’s
Office said they only became aware of allegations on
September 24, 1999 which was after Lieutenant Colonel
Fedorko’s background check was completed. Either the
New Jersey State Police failed to forward my EEO
complaint which I filed in early July 1999, or member
of the Attorney General’s Office are not completely
telling the truth.”

Either of these circumstances, if true, would depict
an attempt at a coverup. Have you seen this before?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: Have you heard this
allegation before?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: The next paragraph says,
“Also disturbing is the fact that the State Police
and the Attorney General’s Office are withholding
information on the circumstances behind the admission
of the two psychological rejects into the Academy.
For instance, when we left work at 5:00 p.m. on the
Friday before the Academy training for the 118th
class commenced, 176 recruits were scheduled to begin
training on Sunday. However, when we returned to
work on Monday, we learned that 178 recruits were now in the training process. Certainly this information is significant, newsworthy and sheds new light on the admission of the two psychological rejects.” Are you familiar with that?

ATTORNEY GENERAL FARMER: I remember that this is the issue that arose in Colonel Fedorko’s nomination process.

SENATOR LYNCH: And the next paragraph says, “At the time I filed the EEO complaint, I did not know whether Lieutenant Colonel Fedorko had any involvement in the incident and did not know that Lieutenant Colonel Fedorko would receive a nomination to the Casino Control Commission. I did know that something did not seem quite right and subsequently requested an investigation.” You didn’t know about that until today?

ATTORNEY GENERAL FARMER: I’m not sure what you mean. The --

ATTORNEY GENERAL FARMER: I did become familiar with this allegation in the context of his nomination, yes. Because I think this may have been what prompted us to go back and inquire as to what

his role was.

SENATOR LYNCH: Now, going forward to the report or memo from Sergeant Cipola dated November 8th, 1999. It says, “While reading the November 6, 1999 edition of the Star Ledger, I became distressed upon learning that the New Jersey State Police and the Attorney General’s Office conspired to cover up the sordid details relating to the 118th State Police class selection process. Apparently both organizations felt that saving the Governor further embarrassment was more important that reporting the truth about the selection process, including the abuses of the written test, the background investigation and the oral boards. As a result, the Attorney General’s Office provided half truths designed to give former Lieutenant Colonel Michael Fedorko a free ride through the Casino Control Commission nomination hearing. This decision to withhold damaging information was obviously designed to mislead the public. Any claim by either organization that the omission of information was acceptable because of plan changes to the selection process, would ring hollow.” Have you ever seen that document?

ATTORNEY GENERAL FARMER: No.
SENATOR LYNCH: Did you ever hear of these allegations before?

ATTORNEY GENERAL FARMER: No.

SENATOR LYNCH: Now, on the following page, he seems to get into the heart of these allegations about the testing, which is a memo of November 15th, 1999 from Cipola. Paragraph 2. "Investigations of the above areas, namely the law enforcement candidate record, the psychological examination and the oral interview board. The investigation of the above areas, however, are clearly necessary. For example, approximately 90 applicants received perfect scores on the law enforcement candidate record, LECR. This number of perfect scores is excessive and should have raised a red flag. Frank Irwin of RBH, which is the company that designed the LECR, stated that no more than one or two applicants should receive scores of 100 each time the LECR is administered. The high number of applicants who received perfect scores of 100 on the 118th class LECR suggests that many of them might have lied on the biographical portion of the LECR to receive those perfect scores. Frank Irwin also stated that the Division was instructed to conduct background investigations focusing on the biographical portion to counter any attempts at

lying. Frank Irwin told me that he made this point clear to high-ranking Division members. However, the Division did not carry out these investigations. Thus, the organization refused to verify the biographical information supplied by the candidate, although the organization had approximately 80 background investigators readily available. Moreover, the Division was aware that certain training schools were advising pupils to list erroneous biographical information on the LECR to improve scores. Thus, the Division spent thousands of taxpayer dollars to administer a test instrument improperly to enable relatives and friends of Division members to continue in the selection process at the expense of more deserving candidates, including minorities.” Are you familiar with that allegation?

ATTORNEY GENERAL FARMER: Actually I am because we have since moved away from the LECR. We abandoned that test last year in the course of our negotiations with the NAACP.

SENATOR LYNCH: And that’s when you went to some form of a blind screening?

ATTORNEY GENERAL FARMER: And we went to a new form of test.
Examination – Farmer

SENATOR LYNCH: Again, however, as in the case of the Rover, Waugh, Hespe, Verniero structure, as well as the finger-pointing about who didn’t forward documents, did anyone do anything about this allegation to determine whether or not it was true?

ATTORNEY GENERAL FARMER: I don’t know.

SENATOR LYNCH: Do you know whether or not the complaint that was filed by Sergeant Cipola has ever been heard anywhere?

ATTORNEY GENERAL FARMER: I’m not sure.

SENATOR LYNCH: But the Internal Affairs investigation about Fedorko ended by September, October of 1999?

ATTORNEY GENERAL FARMER: I don’t remember the exact time frame.

SENATOR LYNCH: Again, can we ask you to look into this and give us a report as to whether or not this was investigated?

ATTORNEY GENERAL FARMER: Yes.

SENATOR LYNCH: Whether the facts -- whether the allegations contained herein are true? And if so, what punishment will be meted out to those who were involved?

ATTORNEY GENERAL FARMER: I will look into it and provide you a report.

Examination – Farmer

SENATOR LYNCH: Thank you, General.

SENATOR GORMLEY: Senator Cafiero

SENATOR CAFIERO: Thank you, Mr. Chairman.

General, welcome, my friend.

ATTORNEY GENERAL FARMER: Thank you.

SENATOR CAFIERO: Something you said earlier to questions coming from this side of the table and again repeated to Senator Lynch aroused my curiosity when you were describing and defining what these consent searches were. And the thought occurred to me you said there are some sister states I take that have no basis, whether it’s probable cause or reasonable suspicion.

ATTORNEY GENERAL FARMER: That’s correct.

SENATOR CAFIERO: Because they mean what they say, they’re consent searches. Have you had any experience as to what the -- it seems to me it’s like a self-fulfilling prophecy for us to have reasonable suspicion in ours and it gives the occasion and the opportunity, I guess, for the trooper that makes the stop either to eliminate it, not fill it out or to make a wrong statement. What has the experience been of our sister states who don’t ask anything, just simply ask for the consent search, period, with no reasonable suspicion?
Examination - Farmer

ATTORNEY GENERAL FARMER: You know, I don’t know the answer to that question, but I can -- I believe there is some discussion of it in the Justice Department’s report on police community contacts and I will look at that and I’ll get back to you.

SENATOR CAFIERO: I wonder if they generated the same racial profiling issue that plagued us? And as I said, I think ours, having to state a reasonable suspicion, may be, as I said, a self-fulfilling prophecy in giving us the problems we’ve had. And I just wondered as an alternative how much sense it would make if we took some random, not that we want to ask everybody that gets stopped, but if we randomly selected those who we would ask for a consent search, if every fifth stop, regardless of color or Asian or black or what, were given the request for the consent search, that would eliminate any risk for possibilities for that stop and that request being initiated because of the race or the ethnic background of that person who was stopped.

ATTORNEY GENERAL FARMER: Well, I think -- if you look at how the reasonable suspicion requirement started in New Jersey, it was really a response back in 1990 to the first early wave of complaints about racial profiling. And what the thought was and remains is that if you give the police a higher threshold, you’re going to deter abuse of conduct because they will be less likely to just randomly pull people over and ask them to consent. So I think the theory behind it was exactly the opposite of what you’re suggesting, but I will look into what the experience in other state is.

SENATOR CAFIERO: Well, another question.

What would be wrong with randomly selecting those that you request a consent from? There would be no basis at all to say every fifth one that we stop, it doesn’t make any difference, we’re stopping the fifth one. If it happens to be five blacks in a row or five Asians in a row or five whites in a row, that element would be removed completely, I would think, General. For what it’s worth, my friend.

ATTORNEY GENERAL FARMER: Okay.

SENATOR CAFIERO: Thank you, sir.

SENATOR FURNARI: Thank you.

Good afternoon, General.

ATTORNEY GENERAL FARMER: Good afternoon.

SENATOR FURNARI: I’ve got a few things to say, bear with me, leading up to my question.

You know that we’ve heard a lot of testimony about a lot of different things. At least
one of the members of this Committee has concluded
that this tribunal was at one point misled by someone
trying to put a favorable spin on previous conduct
that might have not been favorable if looked on in
its appropriate way. We’ve also heard about
confusion in the Attorney General’s Office where the
former Attorney General testified that he had
directed everyone to cooperate fully with the
Department of Justice, and yet one of the persons
responsible for giving over the documents, the
Assistant Deputy Attorney General clearly heard a
direction that told him not to fully cooperate and to
slow the process down and crawl. And we’ve heard in
the State Police -- and, quite frankly, the State
Police have come across, at least, and might be
pretty good on this, they seemed to have immediately
jumped at issues when questions were raised. They
did investigations. They produced documents. From
everything that we’ve seen, they turned over
documents, whether they were favorable or not
favorable. I wish that many of the attorneys, as an
attorney, I wish they had seemed as candid and
forthright.

I have a question though that relates to
some of the additional testimony and I’d like to hear

Mr. Zoubek was testifying -- was questioned
about indictments dealing with Hogan and Kenna on
falsification. And what we know from the testimony
that’s here before is that an investigation had been
completed in December, or at least in early January.
That that matter had not been presented to a Grand
Jury yet, although there was a Grand Jury empaneled
to hear charges arising out of the shooting incident.
That it wasn’t the intention of anyone who was
handling those matters to move forward with any
indictment. That when the Attorney General learned
in March that it was going to take a number of more
months to move the shooting indictments before the
Grand Jury, that he addressed the falsification
issue. And that he made a decision that he wanted to
move the indictment at this time because the
anniversary of the shooting was coming up and there
was a substantial focus, pressure and criticism on
the length of time that the shooting investigation
was taking. There was absolutely no other legal
reason that the falsification indictment was to be
moved at this time instead of being moved with the
shooting indictment.

Now, I raise that as a question about
whether that was a reasonable and viable consideration in moving the indictment and Mr. Zoubek said absolutely. My question was, is criticism for failing to do a timely investigation, is that an appropriate consideration for an Attorney General to move an indictment and he indicated to me yes, that was true. And that he had been vindicated in that decision. So did the Justice indicate they had been vindicated in that decision by an Appellate Division decision issued by Judge Baime, Wallace and Carchman. Judge Baime and Judge Carchman are former prosecutors, very precise with their words. So I just had an opportunity to look at that case today and I’m going to read you a section of this case and it says, “The decision to conduct two separate Grand Jury proceedings was designed to prevent the Grand Jury investigating the shootings from considering charges that were not germane to the factual issues presented. While there was no legal requirement that the State conduct separate Grand Jury proceedings, bifurcation was intended to insulate each panel to the extent possible.” Now, Deputy Attorney General Richard Berg was with your office and I believe this was during the period of time that you were the Attorney General that this case was on.

Now, it seems to me that what the genesis of that indictment was described to us in full as to why that happened and yet for some reason the Court suffered under the impression that there was a design here to benefit the defendants in bringing this charge. Now, those seem to be kind of inconsistent to me. Could you address how, you know, is this one of those lack of communications between the Director of Criminal Justice and the attorney arguing before the Court?

ATTORNEY GENERAL FARMER: I don’t see it as that at all. I think the Appellate Division opinion is sound. You know, I can’t speak to circumstances that existed in the Office at that time, but we did prosecute the appeal because we thought that the trial Court’s decision was in error and we were vindicated on appeal and the Supreme Court denied certification.

SENATOR FURNARI: But did anyone know that the reason that that indictment was brought -- the reason, yeah, the genesis of the indictment took place in the rooms where life -- where criminal lawyers were sitting around telling the Attorney General that this is not a good idea. Our intention is -- there’s a lot of problems, you have Brook--
Examination - Farmer

Murphy problems. You know, we might have to bifurcate this case. I mean that clearly isn’t a decision that was by design to prevent one Grand Jury from considering charges not germane to the other factual issues. That was a decision to move an indictment because the Office was receiving criticism for not properly -- or not investigating and moving forward on a shooting indictment. Those two things are --

ATTORNEY GENERAL FARMER: I think what the Appellate Division -- I think you’re taking that somewhat out of context. I think the Appellate Division opinion in its entirely basically just affirms the broad discretion of the Attorney General to make those kinds of decisions. And so that the part that you’re reading is a bit out of context.

SENATOR FURNARI: Do you think -- I mean if you know, did they know -- did they know what we know today how the decision process was made? Somewhere was that presented?

ATTORNEY GENERAL FARMER: I don’t know.

SENATOR FURNARI: See, the only thing that concerns me is we go through with reforms and we sit here as many of us being lawyers and we’re looking at an issue of racial profiling that, you know, I agree

may have happened because of these problems in relationship with the police and what we asked them to do. But I’m also afraid that we’re not addressing concerns all the way up to ourselves. As lawyers sometimes we end up as advocates and don’t address the issue. So do you think that there’s some changes? Do you think that there is a way that -- or anything that needs to be done? Again, not focused at the State Police but focused on what the Attorney General’s Office did. What lawyers did. What people that are trusted with the responsibility of telling the layman, you know, where the law is. Are there changes that we need to make here?

ATTORNEY GENERAL FARMER: I don’t think so. No. I think anytime you’re dealing with a bureaucracy you have to be ever vigilant of the issue of communication and that’s just -- that’s something that, you know, you pay a lot of attention to.

SENATOR FURNARI: Well, we heard an awful lot of testimony from government lawyers who said that they had a difficult time with this -- even described as schizophrenic role of representing both the State Police and representing -- and prosecuting and recognizing the responsibility to Justice. Is there an additional training program that we should
have for anyone coming into the Attorney General’s Office? I mean, quite frankly, in my view something that all, you know, lawyers learn in law school right off the bat and they forget it by the time they get to the Attorney General’s Office? Is there some additional training that we need to do in that area?

ATTORNEY GENERAL FARMER: Well, one of the ways I’ve attempted, I think, to address that issue is I did start Advocacy Institute within the Department, one of whose functions is the training of lawyers, both to represent the State of New Jersey and also to act within the Department. So that is an issue that I’ve actively addressed.

SENIOR FURNARI: Thank you.

SENIOR GORMLEY: I’ll ask a question.

In terms of recruitment of counsel, have there been any changes in terms of attracting counsel to the Office? Is there any assistance you would need -- I mean we’re talking about -- you know, through these hearings we’ve engaged in the complexity of some of these matters and what you want is both the citizens, troopers and the State to be able to have the very best counsel available. Are there any needs in terms of additional counsel, in terms of additional wherewithal, that would assist the Office because that person who is the trial counsel has an enormous weight on their shoulders and I’d be curious if, in fact, you have any thoughts in that area?

ATTORNEY GENERAL FARMER: Well, we’ve thought for some time that the pay scale in the Department is out of whack with respect to the private sector. I know when I -- when I got finished clerking the Attorney General’s Office, it was one of the places that I considered going and I ended up going to Riker, Danzig. But at the time the difference in starting salary was, if my recollection is correct, about ten to $13,000. Now, you have private firms which it’s not unusual for people to start at around $100,000 a year and -- Jeff is --

SENIOR GORMLEY: He’s got all the numbers memorized.

ATTORNEY GENERAL FARMER: And our lawyers start at 42.

One of the other problems that we’ve had over the years is defining a career path within the Department. Sort of the senior associate level lawyer is a lawyer that over the years we have tended to lose, so we’ve been working to try to design a career path for our attorneys. So, you know, I think
our attorneys should start at a higher level and there should be a defined career path for them.

SENATOR GORMLEY: Mr. Chertoff?

MR. CHERTOFF: I guess good afternoon, General.

ATTORNEY GENERAL FARMER: Good afternoon.

MR. CHERTOFF: I just have literally three or four questions.

Going back to your presentation at the beginning. As I understood the lesson that you drew from the statistics with respect to 2000, it is that even from the standpoint of law enforcement issues and what’s efficient, it turns out that the practice of profiling is bad law enforcement because it winds up focusing on people who actually are less likely to result in found contraband.

ATTORNEY GENERAL FARMER: That’s correct. As Senator Lynch points out, if you weigh -- if you weigh what you gain in terms of law enforcement in the finds that you make against the humiliation that the people feel whose cars are searched and nothing is found, it’s pretty clear that there’s an imbalance on the side of not doing it this way.

MR. CHERTOFF: But also you’re letting proportionately more people go by that are more likely to have contraband if you’re going to use this as a way of detecting drugs. I don’t know, did you watch Colonel Williams’ testimony or --

ATTORNEY GENERAL FARMER: I read it.

MR. CHERTOFF: There was a point in the testimony when he said something which was a little ambiguous but which being charitable we’ll say it was ambiguous, but it seemed to suggest that he believed that the justification for some amount of profiling is that fact that there’s a lot of narcotics moving up the Turnpike and he seemed to correlate that in some way with ethnic factors. Would you agree with me that the statistics that you’ve put out today absolutely totally destroys that concept?

ATTORNEY GENERAL FARMER: Yes.

MR. CHERTOFF: And do you think that it would be helpful, one of the things that would be helpful in terms of getting the troopers to understand that profiling is bad law enforcement is the fact that you’ve now been able to actually demonstrate that it’s bad law enforcement? So that it’s no longer the troopers feeling that you have a bunch of do-gooders handcuffing them and doing their jobs, but they come to realize that actually profiling is bad in terms of doing their jobs?
ATTORNEY GENERAL FARMER: I think that’s the message that we have to get to rank and file because I think that’s the attitude that we have to change more than any other.

MR. CHERTOFF: And my last question is this. I mean obviously the video cameras were not around back in the mid-nineties and the late nineties, but the sources of information that you used to pull together these statistics was basically the files and the documents generated on consents to search, right?

ATTORNEY GENERAL FARMER: That’s correct.

MR. CHERTOFF: So that would have been material which was available if someone had pulled it together back in ’96 or ’97 or ’98?

ATTORNEY GENERAL FARMER: It could have been done. It would have take more work. Yeah.

MR. CHERTOFF: I have nothing further.

SENATOR GORMLEY: Thank you, General.

ATTORNEY GENERAL FARMER: Thank you.

MS. GLADING: Senator?

SENATOR GORMLEY: Oh, I’m sorry. I apologize. I’m sorry. I apologize. I didn’t realize.

MS. GLADING: Good afternoon, General.

ATTORNEY GENERAL FARMER: Good afternoon.

MS. GLADING: The statistical information that you outlined earlier, was any of that produced as a result of the CAD system?

ATTORNEY GENERAL FARMER: I believe so, yes.

MS. GLADING: Is Troop D computerized on the CAD system now?

ATTORNEY GENERAL FARMER: I believe Troop D is on the CAD system.

MS. GLADING: Okay. The consent decree that the State entered into in December of 1999 requires -- requires semi-annual public reporting of stops and consent search data, is that correct?

ATTORNEY GENERAL FARMER: That’s correct.

MS. GLADING: Has the State complied with that requirement of the consent decree?

ATTORNEY GENERAL FARMER: I believe so, yes.

MS. GLADING: When did you report consent search data previous to today?

ATTORNEY GENERAL FARMER: I don’t recall, but I believe we had.

MS. GLADING: I looked through your second semi-annual public report of aggregate data, which was
provided -- which was made public on the 10th of January 2001. Would consent search data have been included in this?

ATTORNEY GENERAL FARMER: I don’t know. I don’t know if it was or not.

MS. GLADING: So if it wasn’t in this, was it reported separately from this?

ATTORNEY GENERAL FARMER: I don’t remember. It might not have been. I don’t know.

MS. GLADING: Okay. Perhaps your office can provide the Committee with previous reports of consent search data because we’re a little confused about what’s been reported previously.

The MAP system, the Management Awareness and Personnel system, is that functionally going to perform the function of the early warning system that was discussed in the interim report?

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: When will that be up and running?

ATTORNEY GENERAL FARMER: We’re beginning to -- we’re beginning to implement it starting in April and we’re hoping to have it completely operational by September.

MS. GLADING: Be functional April where?

I’ll get you that information too.

MS. GLADING: And fully operational, do you mean all of Troop D or the entire State Police force?

ATTORNEY GENERAL FARMER: I think all of Troop D, but I’ll check that for you.

MS. GLADING: And as you just said, the early warning system was called for in the April 1999 report and it was required, I guess, under the consent decree.

ATTORNEY GENERAL FARMER: That’s correct.

MS. GLADING: When did work begin on the MAP system? Did the State begin work on it in April or May of ’99 or did it wait until after the consent decree?

ATTORNEY GENERAL FARMER: I think we waited until after the consent decree because we weren’t quite sure what the architecture we would need would be.

MS. GLADING: And the CAD system, does that include a records management system?

ATTORNEY GENERAL FARMER: I believe it does but I’m not sure.

MS. GLADING: Is that records management system operable at this point?
Examination - Farmer

ATTORNEY GENERAL FARMER: I’m not sure.

MS. GLADING: I noticed that there was non-compliance with consent decree in January in the Monitor’s second report in areas involving the CAD system, call-ins of stops, call-ins of the end of stops. And the reasons were that the data file that the Monitor received was incompatible with the Monitor’s computer, I guess. And another reason was a misinterpretation of a Monitor’s request that had been made. Do you know if that problem has been addressed and if the Monitors have been provided with compatible data at this point?

ATTORNEY GENERAL FARMER: I’m not sure but I do know that the Monitor was in the first week of March and I did meet with them to give an interview. They didn’t raise this as a continuing concern at that time.

MS. GLADING: They did raise it?

ATTORNEY GENERAL FARMER: They did not. And I believe their next report is going to be out next week sometime so we will know.

MS. GLADING: Okay. Do you know -- well, you’ve been looking, I guess, at videotapes of stops.

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: And I guess there was a fairly significant level of non-compliance in terms of the audio recording of the videotapes. Are many of the tapes that you’re looking at silent movies?

ATTORNEY GENERAL FARMER: Most of the tapes I’ve looked at actually the sound is quite good but there are tapes that have problems.

MS. GLADING: Do you know if compliance has improved with that requirement, that there be audio and video?

ATTORNEY GENERAL FARMER: I believe that it has. Sometimes the problems have been mechanical and sometimes we’re not sure whether it’s mechanical or whether someone is turning the microphone off. But we’re looking into that.

MS. GLADING: The Monitor’s report raised a number of concerns about compliance with item number 87, which was the attempt to complete internal investigations within 45 days.

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: And it noted that for nearly nine months in 1999 the former Superintendent failed to finalize any pending discipline within the New Jersey State Police. Many of those cases obviously had been initiated in 1998. Do you know the status of the backlog of those cases at this point?
ATTORNEY GENERAL FARMER: I believe we’ve made great progress in eliminating the backlog. I know Carson Dunbar has focused a great deal of attention to the backlog that existed in Internal Affairs and I’m not sure that he’s totally eliminated it. But I know he remarked to me early on that he had some cases that were three and four years old and that took him quite a bit of time to get to it.

MS. GLADING: While a case is pending, an individual cannot be promoted, is that correct?

ATTORNEY GENERAL FARMER: That’s correct.

MS. GLADING: Do you now know how many cases reach that level of being more than a year old?

ATTORNEY GENERAL FARMER: I don’t know.

MS. GLADING: Do you -- we’ve heard some testimony -- the Committee has heard some testimony that the cases, administrative and discipline cases resulting out of the Troop D audit that activity was increased recently on those cases to try to get them resolved. Are you monitoring the progress of those cases?

ATTORNEY GENERAL FARMER: Personally?

MS. GLADING: Um-hmm.

ATTORNEY GENERAL FARMER: No. The Office of State Police Affairs is overseeing that process, I believe.

MS. GLADING: Do you have concerns that those cases are still outstanding --

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: -- nearly two years after the audit was ceased?

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: Do you have concerns that some of those cases may rise to the level of -- at least one case, perhaps more, may rise to the level of seriousness that was alleged in the Hogan and Kenna records falsification indictment?

ATTORNEY GENERAL FARMER: I have been told that no cases rise to that level. But if one did, I would have concerns.

MS. GLADING: Do you have concerns that none of the troopers that were audited were actually audited at the level that Hogan and Kenna were audited, where every stop was examined, so we can’t really know what the level of wrongdoing or records falsification was by troopers in Troop D during that period of time because they were never completely audited? Is that a concern?

ATTORNEY GENERAL FARMER: Well, my understanding is that the -- what I was told was that
the ten cases where some serious deficiencies were identified were forwarded for further investigation. That the remainder of the violations were administrative in nature and relatively minor.

MS. GLADING: Do you know why then the ten cases have never been prosecuted through the Internal Affairs process?

ATTORNEY GENERAL FARMER: I believe that there has been -- there has been admittedly some time lag here but the ten cases went to Criminal Justice for review and then they were declined and sent back to the State Police and subsequent to that they were referred to the Office of State Police Affairs and --

MS. GLADING: So they were -- let me back up a second. They were sent from State Police to Criminal Justice. When was that?

ATTORNEY GENERAL FARMER: I don’t know exactly.

MS. GLADING: They were sent back to State Police?

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: When was that?

ATTORNEY GENERAL FARMER: I don’t know exactly.

MS. GLADING: Okay. And then they were sent back to the Office of the Attorney General, Office of State Police Affairs?

ATTORNEY GENERAL FARMER: State Police Affairs, yes, for their input on the potential discipline.

MS. GLADING: And when was that?

ATTORNEY GENERAL FARMER: I believe that was about a year ago.

MS. GLADING: And then they were sent back to State Police again?

ATTORNEY GENERAL FARMER: Yes. Office of State Police Affairs reviewed them and made their comments and they’ve been returned to the Colonel.

MS. GLADING: And they were determined again not to rise to a level of criminal culpability?

ATTORNEY GENERAL FARMER: That’s correct.

MS. GLADING: And they were sent back to State Police? Do you know when that was?

ATTORNEY GENERAL FARMER: I don’t know.

MS. GLADING: So essentially nearly two years passed. The shutdown of the Troop D audit. Ten cases were identified as being possibly warranting criminal action and not a single trooper has been disciplined or been subject to a complete Internal Affairs investigation, is that right?
Examination - Farmer

ATTORNEY GENERAL FARMER: I don’t know if ten is an accurate number. Hogan and Kenna might have been two of them. I’m not sure.

MS. GLADING: Are you familiar with the changes being made to the formal promotional process within the State Police?

ATTORNEY GENERAL FARMER: Yes.

MS. GLADING: What rank -- up to what rank will that promotional process apply?

ATTORNEY GENERAL FARMER: I’m not sure that we finalized that yet.

MS. GLADING: It’s not in place then yet?

ATTORNEY GENERAL FARMER: I don’t know.

MS. GLADING: Do you know if the stop data that you’ve talked with the Committee, do you know if that includes construction detail stop data?

ATTORNEY GENERAL FARMER: I don’t know.

MS. GLADING: You’ve done a pretty extensive traffic survey that shows varying levels of minority ridership and different times of the day and different days of the week. Have you compared the stop and the consent search data? Have you done an analysis that compares it to --

ATTORNEY GENERAL FARMER: Of the time of day?

Examination - Farmer

MS. GLADING: -- the survey that you’ve done? The actual benchmarks you have.

ATTORNEY GENERAL FARMER: We haven’t gotten to that level yet, but we’re planning to. I assume you’re talking about finding out when the consent searches happened. What time of day and then comparing it with our population survey? Yeah, we haven’t gotten to that level of detail yet.

MS. GLADING: You said it more artfully than I did.

I understand that the State has just entered into a contract with a testing company that can provide testing, psychological testing for racial bias, is that correct?

ATTORNEY GENERAL FARMER: I don’t know.

MS. GLADING: Do you have a projection at this point of how much the State anticipates it will be spending in settling civil claims or criminal claims -- or civil claims in connection with racial profiling allegations?

ATTORNEY GENERAL FARMER: No.

MS. GLADING: Do you know how many cases or files there are outstanding at this point?

(Pause)

ATTORNEY GENERAL FARMER: We have two class
actions and then a few other cases. Apparently under five.

MS. GLADING: Have the classes been certified in any of those class actions?

ATTORNEY GENERAL FARMER: Class certification was denied at the state level in one. There’s a motion in the federal court which has not been decided.

MS. GLADING: Okay. And the State is opposing class certification?

ATTORNEY GENERAL FARMER: We have been, yes.

MS. GLADING: Can you explain why you’re opposing class certification?

ATTORNEY GENERAL FARMER: Oh, because we think it’s a very difficult thing to prove. We’d basically be taking at face value people’s assertions that this conduct occurred and I don’t think that’s appropriate.

MS. GLADING: And do you -- have any cases been settled in the last 60 days?

ATTORNEY GENERAL FARMER: Since the -- well, we settled the Tobia (sic) case at the end of the year and we settled the 7A case -- I don’t know if that was 60 days ago or not.

MS. GLADING: There’s been no other settlements other than those two in the past three or four months?

ATTORNEY GENERAL FARMER: Not that I’m aware of.

MS. GLADING: Okay. The 15-year old boy who was the subject of the frisk search by Governor Whitman down in Camden, is that an open filed in your office at this point?

ATTORNEY GENERAL FARMER: No.

MS. GLADING: Has there been any notice of tort claim?

ATTORNEY GENERAL FARMER: Not that I’m aware of.

MS. GLADING: Do you now of any pending civil action in that case?

ATTORNEY GENERAL FARMER: No.

MS. GLADING: I won’t call it a case then. Have there been any negotiations?

ATTORNEY GENERAL FARMER: Not that I’m aware of.

MS. GLADING: That’s all I have. Thank you, Mr. Chairman.

SENATOR GORMLEY: I’ll thank you again. Thank you again for your testimony, Mr. General.
ATTORNEY GENERAL FARMER: Thank you.

SENATOR GORMLEY: We’ll take a half hour break.

(Off the record)

SENATOR GORMLEY: Colonel, I’d ask you to come forward to be sworn, please. Raise your right hand, please.

C A R S O N   D U N B A R, SWORN

SENATOR GORMLEY: Be seated.

Colonel, we’d appreciate your comments at this time.

Make sure the red light is on.

COLONEL DUNBAR: Let me begin today by stating that I am glad that you have undertaken these hearings. I strongly supported Attorney General Farmer in his decision to release documents concerning the State Police. I have watched the State Police die a death of thousands of small cuts. My sincere hope is that with these hearings we can begin the road back to normalcy.

I will try to answer your questions to the best of my ability. I am sure that I have not moved the State Police far enough and you will have questions about this. Yet at the same time I say with great pride, we have moved considerably in all that we do. As I sit here today and look at this Committee, I ask which of you, which of us, have not had a prejudicial thought or action. Is the issue that we are here to discuss an issue of the State Police or an issue of our society? I make no excuses for the State Police, yet are we alone? Why is it that whenever I attend a police leadership seminar that we discuss the very topic that has brought this Committee together? Why is there a national discussion on profiling and statistical collection? Is it all due to the New Jersey State Police or is it that the issue that faces this entire country an issue, a sub-issue of how we review race in this country?

The issues I found in the State Police involve much more than racial profiling. They involve promotions, specialist selections, personnel actions, Internal Affairs investigations and how we treat each other. In order to address what we do on the outside, we must also solve our problems within.

The documents you have reviewed reflect the issues we face today are not one year old, they are not two years old, they are not even three years old. They are decades old. It is refreshing to see your interest in this subject but my question is where was
Opening Statement - Dunbar

1  this interest years ago?
2  I will tell you that there has been a
disconnect between the leadership of the State Police
and the Attorney General’s Office for some time.
Both depend on each other, yet it is clear to me that
there was no bond of trust. Each eyed the other with
suspicion. In fact, when I was hired, there were,
and most likely still are today, those who believe me
to be the puppet of the Attorney General’s Office. I
would submit that anyone that really knows me, knows
that I am many things, but I am not a puppet of
anyone.

What I have found interesting is that both
in the Attorney General’s Office and in the State
Police, the vast majority of the personnel are
hardworking individuals dedicated to public service.
The years of animosity are clear to see, yet during
my 18 months I have seen countless personnel working
side-by-side to overcome problems we face. What
progress we have made has been the result of these
people working together and getting to know each
other. I will tell you that both the Attorney
General and I have had to push people in an effort to
build trust, but like everything else we do, we
accept small steps and we have moved things forward.

Opening Statement - Dunbar

1  The Office of State Police Affairs within
the Attorney General’s Office works side-by-side with
us. There are occasions that I strongly object to
some of the things that they recommend. We argue and
in some cases fight, however, in most cases we come
to agreement. I think this process is healthy for
the State of New Jersey.

As the Superintendent of State Police, I am
dependent upon a bank of attorneys within the
Attorney General’s Office. I find it hard to believe
that anyone would warrant or authorize the
disbandment of the Legal Affairs Office in the State
Police. However, this was done. Frankly, I don’t
know how things were done without this office. Don’t
get me wrong, like most people, I don’t love
attorneys, yet in today’s world, you just can’t
survive without them. Unfortunately, I must call
upon them every day to provide some form of
counseling. How can you possibly do your job in
today’s world without good legal counsel.

Let me address the very painful topic of
racial profiling. I certainly, and I believe that
each of you, would agree that racial profiling is an
unacceptable practice. However, what do you do when
someone partakes in this action unwittingly? I think
it is time for some real honesty. When you think of someone involved in a crime, whom do you think of? What flashes into your mind? The problem with what flashes into your mind is that it is perception. The problem with perception is that it turns into reality. We in law enforcement come into contact with a small portion of our population. Our encounters are often under difficult circumstances. We add to the perceptions we bring to the job, those perceptions we develop during law enforcement encounters. The problem with all this is that we become tainted of what we experience. This then becomes our reality. It is based on a perception brought about through contact with a very limited part of our society. Sadly, we end up in many cases treating people based upon our perceptions. And those perceptions are based on a very small part of our overall public.

The same thing occurs with our troopers. Make no mistake, the vast majority of our troopers are hardworking individuals who love their job and whose main goal is and has been to make a difference. These troopers were enlisted in a war against drugs. Through years of law enforcement they develop perceptions. They acted on these perceptions for the most part in good faith. The question is, were their perceptions accurate?

While we have struggled through the last three years, the Appellate Courts have made some decisions that will have great impact on what we do. Just within the last several weeks in State v. Keith Leslie, the Appeals Court limited the scope of search of a motor vehicle, even with consent. Based upon recent decisions by the Appeals Court, I would submit they do not concur with the perceptions of the police officers. Further cases can be explored in State v. Kardi, State v. Chapman, State v. Hampton, State v. Hinton.

Since taking office, what I have attempted to do is have us look at everything that we do. How we organize our personnel policies, our training, our discipline, our uniform. How we work with others to include the Attorney General’s Office. In almost every case I saw a need for change.

Furthermore, we are moving in all these areas at the same time. A very difficult process. I strongly believe that in order for us to really resolve issues involving racial profiling, we must examine our perceptions. I mean a real examination. We must determine what we want and how we plan to get...
there. We have volumes of rules and regulations. We must understand what the rules are and we must be held to them. I know there is consideration to pass a new legislation, however, unless there is both voluntary and mandatory compliance with these rules and regulations, as well as legislation, the value of any new legislation will be limited. One need only look at the civil rights laws of the 1960s. They are now almost four decades old, yet we still face issues of non-compliance with the rule and the spirit of these laws. In the Soto case, one of the issues cited by the Judge was the fact that a large portion of motor vehicle stops were missing. The failure to call in stops have a long history. It was part of how things were done for a long time and even upon my arrival, it was something that was very problematic. Yet without accurate information regarding stops, statistical data is all questionable.

It was issues such as failure to call in stops and non-compliance with Division policy that led me to my emphasis on discipline. All their timeliness of discipline is still a major concern. Our Internal Affairs investigations I believe to be of excellent quality, an issue that the federal Monitor has commented upon and we’ll comment upon in the very near future.

I have also increased most of the discipline as of March 1, 2000. I firmly believe that we in the law enforcement must be held to a higher standard. I have an expectation that all my personnel must be counted upon to do their job the right way every day.

I have commented several times now that I believe that the vast majority of the members of the New Jersey State Police to be hardworking, very dedicated personnel, yet I will also tell you there is a very small, very small, very vocal cell of individuals that believe there is no need for change. This small group will do whatever is possible to eliminate disappointment and return to the past. Frankly, they are bullies and enjoy being bullies. I know that. I will struggle with these individuals throughout my tenure. They are the ones that lie to you and others. I have dealt with people like this before. They do not represent true law enforcement. I recognize what they are and know they have no place within the State Police. They will certainly invoke the term “morale” as their rallying call. Today we are near a crossroad in the history of the New Jersey State Police. This crossroad can lead to a future
that will have difficulties, however, it is the road
that will never have us travel the path we have
traveled during the last three years. It is the road
where we examine our perceptions as individuals and
determine what reality really is.

The second road is a road that leads to the
past. I know that in examining documents, you know
that the State Police in the early 1990s came to the
same crossroad. Today’s Committee reflects where the
road taken has brought us. You will play a part in
deciding what road we take in the future.

When I appeared before this Committee
during my confirmation hearing, I told you then that
I had no magic wand. I told you that the change
ahead would take about four years. I also told you
that I did not know the problems that I would
encounter. Today I can tell you that the problems
are much more than the racial profiling. And yes, it
will still take the four years that I predicted.

One of my proudest days was graduating from
the New Jersey State Police Academy. In some ways it
was one of the major achievements in my life. I
understand the pride that the men and women of this
organization have. It is my pride in them that
forces me to speak out against those within our

organization that must either change or leave.
Everything I do is with their well being in mind.
Like a parent watching over a child, you must do the
right thing for the long term. There are those that
believe that the way to making a child happy is
giving them everything they want. I don’t think that
is the answer. I will not be intimidated. I know
things will be difficult. I have met resistance and
I am sure that I will continue to meet resistance. I
ask only that you consider the last three years and
determine if we should ever go through such a period
again.

You as a Committee confirmed my nomination
just under two years ago. I can tell you I have
never worked as hard as I have in the last two years.
I am not interested in making friends or having
people love me. I want the New Jersey State Police
to take its rightful place of leadership in the
American law enforcement. Where some troopers may
lament the fact that they are part of a kinder,
gentler State Police, I believe it to be the
beginning of an organization that dedicates itself to
ideals of performing all of its duties,
constitutionally and with compassion.

Sir William McPherson, who conducted an
inquiry somewhat similar to this in the tragic Lawrence case in London, England stated, “The collective failure of an organization to provide an appropriate and a professional service to the people because of their color, culture, ethnic origin, can be seen or detected in processes added to its behavior which amount to discrimination. Through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping, which disadvantages the minority ethnic people, I submit what we struggle with here today, whether it be wittingly or unwittingly, is an issue that not only affects the New Jersey State Police, the State of New Jersey, the United States, but much of our world. My sincere hope is that we take this opportunity to truly examine the issues and make a commitment to take the road to understanding and respect in dealing with the difficult law enforcement issues. For I believe that only with partnerships of all our communities will we overcome our law enforcement concerns and provide for the safety of those we strive to serve.

It is my hope that after you review, you will see that this has been a long-term issue that is extremely complex that has developed as a result of both witting and unwitting intent. More importantly,

this is an issue that we in New Jersey can dedicate ourselves to working through. I believe that New Jersey deserves this as do the men and women of the New Jersey State Police.

Finally, I can state that I have only been here for 18 months and know that change was and is needed. Many of you have served the state for many, many years. Already I have heard some state that the change is needed is my departure. I strongly disagree. What is needed is the courage to continue change. The courage not to confuse morale with the painful process of bringing about change. What is needed is a willingness to learn and understand that people resist change. What is also needed is an examination of all voices and not just those that are vocal.

Monsignor Sheeran, at our graduation today, quoted Eric Hoffer, the workingman’s philosopher of the 1960s, “In times of change it is a learner who will inhabit the future.” You can draw whatever conclusions you desire. You can place blame wherever you wish, however, in the end you fail to bring about progress if you fail to allow the seeds of change to grow. Other will undoubtedly sit in these chambers years from now and address these very same issues.
How we treat each other and what kind of public servants we are is important. For me, law enforcement has never been a political enterprise. However, I also understand political reality. In the end, I will follow the words of William Shakespeare, “This above all, to thine own self be true.” I know what road to take and I plan on taking it.

SENATOR GORMLEY: Senator Girgenti.

SENATOR GIRGENTI: Thank you very much, Mr. Chairman.

Good afternoon, Colonel.

COLONEL DUNBAR: Good afternoon.

SENATOR GIRGENTI: You said that you’ve been here 19 months now?

COLONEL DUNBAR: Eighteen months.

SENATOR GIRGENTI: And could you tell me or the Committee how the practices have changed to prevent racial profiling during the period of time that you have been there?

COLONEL DUNBAR: Well, probably the biggest thing is that I’ve met with every trooper in the State of New Jersey. I did that within about the first six or seven months. During those sessions I spent approximately four hours with every trooper. And I explained to them what my expectations are. I told them that whatever happened in the past, basically has happened in the past, that people deserve to be treated the way that you want to be treated. And as simple as that is, that has been the message that I have given them. And as I indicated in my opening statement, the other thing that I’ve done is taken a very intense look at our Internal Affairs process to reinforce what I believe should happen. And people now have to make a choice, they either follow our instructions, follow the law, follow our rules and regulations, or they will be disciplined or they will be asked to leave.

SENATOR GIRGENTI: Presently how are you training people now to do stops and consent searches? Have there been more instructions? More hours of training with new individuals that are coming in? What is the procedure with that?

COLONEL DUNBAR: During the last year, if you look at our -- if you look at our SOP’s in September of 2000, we reissued all new SOP’s regarding stops, about stop reports. And the purpose of that was to again reinforce what we expected of personnel and also it goes along with the consent decree. The second part of the meetings that we had with all the troopers in phase one training was to
explain to them what was going to be expected of them. And that’s been reinforced with phase two training. Not only the new people that are going through the Academy, we’ve gone back and we’ve retrained every single trooper in the State Police.

SENATOR GIRGENTI: So part of your curriculum or course is a block and instruction in this area? I mean because there was talk of that going way back to Soto and they said --

COLONEL DUNBAR: But, you know, let me just -- Senator, the key issue really isn’t the training by itself, the key issue, I think, is there’s always been rules. There has always been -- I think you can go back to the nineties and you can see that Colonel Dintino put into place rules. An example of that is that there has been a rule for a long time that you called in all stops. But as I said in my opening statement, when I came in there were a number of -- there were a number of issues that stops weren’t called in. And if you look at the Soto case, one of the major criticisms was that there wasn’t any accurate information. And unless we can get people to understand that they have to follow the rules and, you know, I would submit that one of my problems with the Association, with the Troopers Association, is is

that starting March 1 when I said that the discipline would be increased, you know, that did not make some people happy. It’s a gradual progression. But the training by itself just accomplishes one thing. That’s just like if you pass a law, that law by itself, unless it’s enforced, unless people understand that they have to follow that and there is no exception to it, then, you know, the law it will be on paper, but it really doesn’t get anything accomplished.

SENATOR GIRGENTI: I understand that, but I mean part of the instruction is on search and seizure and so forth right?

COLONEL DUNBAR: Search and seizure. I mean, you know, you can pretty much name it. Search and seizures, call-in procedures, stop reports, MVR training. Another thing, you know, that I’ll throw out to you, for example, when I took this job, even though we had MVR’s, there were guys that when they were making a motor vehicle stop, they would turn off the microphones once they got back to their cars. I mean that’s unacceptable. And, you know, we took some disciplinary action and after that we made it known that when a car is stopped, from the time the car is stopped until the time that -- until the time
you clear that stop, you have the microphone on. And now, we’re seeing a reasonable degree of compliance. I’m not going to sit here and tell you that I have a hundred percent compliance, but things are moving forward.

SENATOR GIRGENTI: All right. So how do you -- do you measure this on a daily basis? Is somebody doing this to see -- in a go-forward way, you know, the issues surrounding racial profiling? Are you -- how do you oversee it?

COLONEL DUNBAR: How do I oversee it? I mean I guess my biggest responsibility is to set the tone. And if -- you set the tone of what the expectations are. And then, and I think this was something that was missing, if people don’t live up to that tone, you take action.

SENATOR GIRGENTI: Okay. So according to your feelings, since your tenure there now, they are -- everybody to your knowledge is recording race? They’re doing everything in terms of what has been brought out at this point in time? Are we fully computerized too, because that was a big problem in the past?

COLONEL DUNBAR: No, we’re -- well, fully computerized in what respect? Are we talking about fully computerized as far as --

SENATOR GIRGENTI: For data, for information.

COLONEL DUNBAR: Well, the CAD, as of February 19th, CAD, the Computer Aided Dispatch system, the last element of that, the Parkway went on line. So we now have the information, the basic information. But the big computer project that we’re working on, the MAPS program, probably won’t be implemented, I would say, four, five, six months. That’s a personnel, that’s part of the consent decree. But as far as gathering the data, the raw data of stops and such, that is now pretty much fully computerized and based on my -- based on what the Monitor has reviewed, based on my own daily exposure to the radio system, everybody that’s making stops is complying. But as I’ve said, with probably 1,700 people in the field, I can’t speak to every single individual.

SENATOR GIRGENTI: Well, what happens if they don’t comply?

COLONEL DUNBAR: They have a problem.

SENATOR GIRGENTI: And what would that entail?

COLONEL DUNBAR: It depends on how bad, you
know, it depends on how -- what they do. For example, if it’s a -- if it’s a -- if you don’t call in a stop and we learn about it, you know, chances are you’re going to get suspended. Now, if that was an intentful thing, now there’s a whole bunch of -- there’s a whole bunch of ways you can get there. We have some cases where individuals don’t call in the stop the way it’s supposed to be done, but there’s no intent to deceive or anything like that. And we try to work with that. But the thing that I’ve been trying to do for the last 18 months is to try to enforce that we’re going to follow the rules.

SENATOR GIRGENTI: And then when you get this data, who gets the reports? Do you get them or what do you do with the data?

COLONEL DUNBAR: Okay. Which reports -- which reports are we talking about?

SENATOR GIRGENTI: The information on the stops and the data that’s been compiled. I’m sure you’re overseeing it to make sure that it’s being complied with. Where does it go from there? Do you get it and then you pass it on or where does it go?

COLONEL DUNBAR: Well, there’s all kind of different data, and I’m a little bit unclear.

SENATOR GIRGENTI: Well, stops, search --

COLONEL DUNBAR: Are you talking about cumulative stops or are you talking about individual stops or --

SENATOR GIRGENTI: Well, I would assume cumulative in the end. You know, to get background and information, the data that’s a result of stops on the Turnpike or Parkway, whatever. Where does that go once it’s put together? Who --

COLONEL DUNBAR: Senator, the big -- I guess the big thing that most people want to know about is the overall data collection.

SENATOR GIRGENTI: Right.

COLONEL DUNBAR: And what happens with the overall data collection is that the computer -- I mean it’s called into CAD, then reports are run off CAD and you get an idea of what your various stations are doing as far as percentages of stops, who’s being stopped, you know, what they’re being stopped for and so on. We also have patrol charts. We also have individual reviews. So the overall data is produced on a period of time and then is analyzed to see if there’s anything there that basically we’re uncomfortable with. And then we go back and we look at individuals. We look at individual patrol charts. We look at individual videotapes and try to find out
what’s happening, why is that happening.
  SENATOR GIRGENTI: How closely is that
monitored? Is it --
  COLONEL DUNBAR: How closely is that
monitored?
  SENATOR GIRGENTI: Yes.
  COLONEL DUNBAR: I would say it’s pretty
closely monitored.
  SENATOR GIRGENTI: All right. Are there
any other ways of measuring if people are being
stopped inappropriately besides -- I guess through --
you said there’s more supervisors on the road I
heard?
  COLONEL DUNBAR: Well, not yet. I mean
we’re in the process of doing it. You know, one of
the major things that we’ve looked at is that I think
back in 1998 there was something like 225 Internal
Affairs cases. Last year there were 584 Internal
Affairs cases. This year we’re on a projected rate,
if we keep going the way we are now, we could
possibly hit as many as 900 cases. The bulk of
those, four-fifths of those case are cases from the
outside. And many, many of those are cases of
complaints against troopers of disparate treatment,
racial profiling and so on. In every one of those
cases, we go back and we look at the videotapes, the
videotapes available. We look at the patrol charts.
We review all of that. And what we’ve found is that
in the bulk of the cases, in the vast majority of the
cases, there is no issue. You know, the information
just is not accurate. But we also have found some
cases that are problematic and those cases are being
addressed. And what I believe is that as people
understand that if you’re doing something
intentionally or wittingly, that you’re going to have
a problem. And that information, as time goes on,
people are just going to understand that the
standards have changed.
  SENATOR GIRGENTI: Okay. But the Attorney
General mentioned the fact that you were going to put
additional supervisors --
  COLONEL DUNBAR: Yes. That’s --
  SENATOR GIRGENTI: How would that work?
  COLONEL DUNBAR: The additional road
sergeants?
  SENATOR GIRGENTI: Supervisors.
  COLONEL DUNBAR: Yeah. We’re in the
process right now, and probably within the next 60
days, we will have a road sergeant that will be
basically assigned full time to road supervision.
There will be one watch commander that will be in the station and there will be another sergeant on the road. And that individual’s responsibility will be to oversee stops. If there’s a consent search to go to the scene of the consent search and provide some expertise. Now, that was one of the things that was recommended in the Attorney General’s report and probably the only reason we haven’t had the position so far is the fact that we’ve been waiting for the contract to be concluded. And the last of the three contracts was just signed, I believe, last Monday.

SENATOR GIRGENTI: I spoke earlier with the Attorney General and I said, you know, and I feel this way despite the stain on the reputation of the New Jersey State Police because of things that have happened in the past, it’s important to recognize and award excellent behavior, and I’m sure you agree with that. You know that we had a problem in the past in terms of the trooper of the year program. The emphasis, perhaps was in the wrong area. It was on numbers and aggressiveness. How do you, as the head of this Agency, reward top performers and what criteria do you use?

COLONEL DUNBAR: Let me just --

SENATOR GIRGENTI: I mean a committee does it, right?

COLONEL DUNBAR: Well, let me just tell you who this year’s trooper of the year was. This year’s trooper of the year was an individual named Everingham from the Bridgeton station. And what Trooper Everingham did was he reduced the calls for assistance at what I know as Seabrook Village, which has a different name now, which is a low-income housing project in the Cumberland County area. He reduced calls for assistance from a thousand down to 500 in one year. He also, in the local high school there, reduced calls for assistance by 40 percent. That trooper, even as young trooper myself assigned to Bridgeton, I used to go to Seabrook Village all the time. It never dawned on me to get to the heart of the problem. He got to the heart of the problem. He resolved that issue. That is why he was selected as the trooper of the year. As you said, there are a lot of people in the State Police that do an outstanding job and I think this Trooper Everingham is an example of that. And you know how Trooper Everingham was found? He wasn’t found through the normal way. What I dictated, I instructed that every road station would submit one name of an individual who they deemed to be the best trooper. In addition,
I also recommended that -- I also instructed that our Traffic Bureau and our Patrol Support Bureau submit one individual. The Patrol Support Bureau, which has community policing, had Trooper Everingham. That’s how his name surfaced. So there are a lot of good people out there doing good things on a daily basis and they’re overlooked. You know, what I’ve tried to do is just look in different places and find an individual like him. And let me just say something else too. That in law enforcement, one of the things that -- one of the things that people get involved in law enforcement for is to basically to be involved in arrests and do things. There’s nothing wrong doing that as long as you do it the right way. And the two key words that I say over and over again, and we’ve made it part of our -- part of our code. In fact, I have it written on a little -- on a card that’s issued to every trooper, and basically it says that we will do our job constitutionally and with compassion. And what that means is that -- and I tell my troopers, I said you have to have the courage that if you don’t have probable cause and if you don’t have reasonable suspicion, that you’re willing to walk away.

I will also submit to you, Senator, that --

and I find this kind of interesting because I know there will be a lot of -- there are issues about Troop D, which is the Turnpike. When the arrest statistics came out for Troop D some months ago, there was a very critical article in one of the major media outlets about the fact that arrests had dropped in Troop D from I believe 1,300 right to about 350. I will not tell my troopers to go out and push the envelope. I want them to go out -- I would rather have three or four or 500 solid arrests with no questions, then have 1,300 arrests and be in a situation that we’re in now. Maybe the arrests will get up again, but if they’re going to get up there again, then I want to make sure that every single arrest we do is done the correct way.

SENATOR GIRGENTI: All right.. And prior to your tenure, one of the priorities was drug interdiction on the highways, the Turnpike and so forth. Have you -- has the emphasis been changed, not so much to on this, you know, as much of an emphasis on the drug interdiction on our highways?

COLONEL DUNBAR: No.

SENATOR GIRGENTI: What has happened as a result of all this?

COLONEL DUNBAR: The emphasis hasn’t been
changed. What the emphasis has been on is doing the job the right way. And the arrests are going to be the arrests. And I would suspect that probably if the arrest windowed dramatically, that then the question would be why aren’t we making more arrests? But, you know, my emphasis is, has been and probably will be till the day that I leave, that I want people to do the job the right way. And let me just, you know, I went back and one of the sayings in the State Police is traffic enforcement isn’t police work.

Well, I went back and I looked at the number of people killed in New Jersey and there are three times as many people killed in New Jersey by automobile accidents as there are by guns -- murders. I don’t know how many by guns. I think there’s been roughly between 250 and 280 murders a year. We have between almost 800 vehicle deaths. What I believe is that if we’re out there and we’re doing the job the way it’s supposed to be done, if we’re making motor vehicle stops the way they’re supposed to be done, we’re going to encounter the public and as we encounter the public, we’re going to run across people who have stolen cars. We’re going to run across people who have, you know, who were involved in different criminal acts. And we’re going to make the arrests.

But the key is that whatever we do, we have to have a sound basis for what we do. I mentioned in my opening comments, there’s been five cases that I know of in the last -- in the last year that have all gone to the Appellate Division. All five cases involved State Police personnel and each one of those cases have resulted in the Appellate Division overturning a Superior Court decision and basically changing the law. And, for example, even with consent, according to the Leslie case, we can no longer search the trunk of a vehicle. That’s going to restrict what we do.

So the emphasis isn’t on -- hasn’t been changed from arrests. The inferences are now, as far as I’m concerned, is on doing the job the way it should be done.

SENATOR GIRGENTI: Just a couple more questions.

In light of the past controversy, what are you doing to keep up the morale of the State Police and how is the morale presently?

COLONEL DUNBAR: Well, as I said in my opening statement, the term “morale” -- I’m glad you brought that up because I think morale is somewhat of a misnomer. Look, in the last couple of years the State Police has received better equipment than it’s
ever had in the history. The contract that was just 
recently signed is probably one of the best contracts 
they’ve ever had. I will support everything that the 
troopers do that is up to what the standards that I 
believe that we should have. If -- I don’t want to -- 
I’m not going to be held hostage to morale, because 
morale, as I said before, morale is something -- in 
fact, I’ll go back to 1973. There was a major 
article in the newspaper, “State Police morale on an 
all-time low.” You know, morale is what people want 
it to be. Morale is something that people use. And 
as I said, it’s the vocal -- it’s the vocal group of 
people who are disenchanted. People who don’t want 
to change. The question I ask is that do we bring 
about change or do we concern ourselves strictly with 
morale? I mean what is the more important part? And 
if it is, you know, if it is morale, then we just let 
people do whatever they want to do. You know, I 
can’t -- you know, trust me, there would be nothing 
that would make me happier than if I could be 
everybody’s friend and if I could say, hey, 
everything is great. We’ve got no problems. But I 
don’t think that’s why we’re here.

SENATOR GIRGENTI: All right. Just two 
more.

Are troopers now receiving, and I believe 
you’ve touched on it already, a clear message on what 
the responsibilities are and how to properly conduct 
themselves with respect to the rights of motorists?

COLONEL DUNBAR: I think that -- first of 
all, I think the bulk of the troopers always had 
that. I think that we’ve gone back and reinforced 
things that we want to have happen. And again, I go 
back to this simple card, as simplistic as it is, you 
know, “Perform your duties constitutionally and with 
compassion.” All this really is is a reminder and I 
-- one of the things that I get, Senator, all the 
time is that, you know, we need to update our core 
values. We need to update our mission statement. 
You know, if you look at what Norman Schwarzkopf 
said in general order number one, you don’t have to 
update this. I mean General Schwarzkopf, when he 
wrote this, really had vision. And that’s one of the 
things that -- we talk a lot about tradition in the 
State Police and I’m not changing this because I 
think it says everything that you could possibly 
want. It says that “The prevention of crime is more 
important than the punishment of criminals. The 
force, individually and collectively, should 
cultivate and maintain the good opinion of the people
of the state by prompt obedience to all lawful
commands, by a steady and impartial line of conduct
and the discharge of their duties and by cleanly and
sober and orderly habits and by respectful bearing to
all classes.” We can change the terminology a little
bit, but this pretty much says everything. The
question is, are you held to it?
SENATOR GIRGENTI: The interim report, when
we first went over it and the report that came out,
said it was really a few “bad apples,” to use the
expression, or a few individuals that were the
problem. Do you believe that was the case or do you
think it was more pervasive than that? Do you think
based on figures we see and statistics that we’ve
looked at, is it beyond just a few bad apples or
would you say -- how would you --
COLONEL DUNBAR: Well, it all depends on
how you want to define “few bad apples.”
SENATOR GIRGENTI: Well, bigoted, you know,
different words we use.
COLONEL DUNBAR: Some people -- you know,
there is -- again, as I said in my opening statement,
there is a -- there is a vocal cell within the State
Police that don’t -- that doesn’t particularly care
for me. They want to continue doing the business the
way they were doing it. But the heart of what I said
before, and this is -- this is the difficult part and
this is the thing, people will ask questions about
laws, about rules, about a whole bunch of things, but
perception. If you perceive what you’re doing is the
right thing, if you believe that and you happen to
not be doing the right thing, does that really change
what you’re doing? And that’s one of the dilemmas
that -- if you think -- if you believe that the only
thing you have to do is arrest people, and if you’re
willing to push that envelope beyond where it should
be pushed, you could still in some respects be a good
trooper, but you’re just not going the right way.
SENATOR GIRGENTI: And then this --
COLONEL DUNBAR: But I think your point
though, your point that -- and this is something else
that kind of saddens me and I can give you a story
where a trooper was telling me about his son or
daughter in grade school being questioned by a
teacher or another classmate. “Is your dad one of
those troopers that do all those bad things?” And
that was
-- that’s rather unfortunate because I think that the
vast majority of the people in the organization are
good, wholesome people. And, you know, I sit here
today and I wouldn’t have a prayer in hell if it wasn’t for the fact that there are a lot of good people in the State Police that believe in the same thing that I believe in and that had been working -- they worked before I got there and they’re working now and are working towards the future of the Division.

SENATOR GIRGENTI: Finally, just one last thing.

What happens now if there’s a falsification of records? What is the procedure?

COLONEL DUNBAR: It depends -- well, if your falsification of records, you’re more than likely you’re going to end up --

SENATOR GIRGENTI: It could he ghosting.

COLONEL DUNBAR: Well, you’re going to end up with an Internal Affairs case and then it depends on what you do. And, you know, it can be anything from a written warning up to termination, depending on how serious that the issue is. But you have to take things in perspective. You know, for example, some of them, you know, I hate to admit this, but we have some people that are just sloppy. We have some people that are just lazy. You have some people who are very, very hard workers and they do a tremendous amount of work and they’re just forgetful. But then you have some people that just have every intention of hiding things and not complying. The last group is the one that’s most important to me. The first three are people that we will -- we will have to deal with because their conduct also cannot be condoned. The ones that I’m concerned about are the people that purposely act to deceive.

SENATOR GIRGENTI: All right. And during your tenure, how widespread is this banner? Has there been a problem of what magnitude of falsification of records?

COLONEL DUNBAR: Well, I would like to say that during my tenure it has not been that great. And I can tell you, you know, I just recently had a -- I just recently had a disciplinary proceeding in which an individual received what I considered to be a pretty severe penalty for a one-time occurrence because in that case I think that there were questions about whether that person was trying to deceive or not deceive. I can also tell you that although it didn’t occur in my tenure, it occurred during my tenure in the sense that I reviewed the cases for Internal Affairs and there have been quite
a few cases. In fact, there was one major case that
involved almost 50 people in which I took
disciplinary action.

SENATOR GIRGENTI: And what would
disciplinary action be --

COLONEL DUNBAR: Disciplinary action could
be anything from a written -- it could be anything
from a verbal warning to a written warning to
suspension. And in the big case I was talking about,
most of them were suspensions -- were written
warnings to suspensions.

SENATOR GIRGENTI: What does a suspension
entail? What is it?

COLONEL DUNBAR: A suspension, in that
particular case, I think the longest term suspension
was five days. But we’re talking a few incidents. A
few incidents in about a three or four-month period
of time.

SENATOR GIRGENTI: Okay, thank you,
Colonel.

SENATOR GORMLEY: Senator Zane.

SENATOR ZANE: Colonel, for my edification,
can you explain to me, there essentially are five
separate Divisions, am I correct, A, B, C, D and E?

COLONEL DUNBAR: Five troopers, right.

SENATOR ZANE: Five troops. Are those
troops by location and do troopers get transferred in
and out of the different troops? Or if you graduate
and you’re assigned to D Troop, are you in that troop
the rest of your life? How does that work?

COLONEL DUNBAR: Troops A, B and C are
regional troops. A is South Jersey. B is North
Jersey. C is Central Jersey. Troop D is the
Turnpike. Troop E is the Parkway. No one that I
know of gets assigned to Troop D or Troop E right out
of the Academy. Generally, I believe you have to
have at least a minimum of one year, possibly two
years before you go out what we call a toll road,
Troops D and E. And people are, in fact, rotated
around. One of the things that occurred I think just
prior to my arrival was that on the Turnpike, for
example, there were a number of people who had been
on the Turnpike for an extended period of time and a
decision was made that people would be rotated off
the Turnpike, at least for one year, after they do
five or six years. The same thing is now taking
place in Troop E where we have either completed or in
the process of transferring people that have been out
there for a long period of time back to a non-toll
road assignment.
SENATOR ZANE: Is the tenure, for example, once you go, let’s say, to Troop D, how long might a trooper anticipate being there?

COLONEL DUNBAR: As I understand, right now that you’re not supposed to be there more than five years.

SENATOR ZANE: Colonel, I don’t know whether this is -- whether it’s accurate or not, but I believe that for the months of January through April of 1999, within the entire State Police there were 118,000 stops. Thirty thousand -- roughly 31,000 of those stops were members of a minority.

COLONEL DUNBAR: What time frame are we talking about?

SENATOR ZANE: January through April of the year 2000.

COLONEL DUNBAR: Okay.

SENATOR ZANE: And that works out to a percentage of 25.6. Troop D, which is the Turnpike, the stops during that same period of time were 27,000 -- rounding off, 27,900 and that which were minorities was a little less than 11,000 for a total minority stops of 38.3 percent. That contrasted with the other troops. They had a balance of 90,382 stops. Twenty thousand were minorities. 22.1 percent was therefore then minority stops. The total New Jersey population, according to the 1998 census at that time for purposes of this, was 8.1 million. Minorities were 1.7 million. The State percentage was 20.5. Now, recognizing that people are traveling and they’re not necessarily the same minorities that we’re talking about, but if this is accurate, what this points out is that in the non-Turnpike troops, the percentage of stops is consistent with the population of minorities in the state, whereas the Turnpike stops are nearly double. And at this point, having sat through these hearings and listened to the testimony and read more documents than I’d like to think about, it’s clear to me that what has been going on has been going on for quite some time. And it seems that it’s indigenous to the Turnpike, not necessarily the State Police. Are these figures that I’m telling you about new?

COLONEL DUNBAR: No, they’re not new.

SENATOR ZANE: You’re familiar with these?

COLONEL DUNBAR: I’m familiar --

SENATOR ZANE: Tell me why then, if you can. And I’ll be glad to show them to you if you want.

COLONEL DUNBAR: I don’t know the answer to
that yet, Senator. I’ve looked at a lot of things. For example, and there’s no, you know, you know as well as I do that if you look at those numbers that Moorestown station is even more graphic and, you know, one of the things that Moorestown station has that virtually no other station has is 295 running alongside of it. Just last Sunday, not this past Sunday, a week ago Sunday, I traveled down the Turnpike and I made a point of looking at license plates when I got down to Exit 7. By the time I reached Exit 4, there was virtually no New Jersey vehicles because the people, I think, are using either 295 or using 130. The Turnpike is a different road. In fact, the Turnpike is really three roads. If you take a look at the Turnpike, you have up to 7, which is the Moorestown patrol area. You have one kind of a road. When you get to Cranbury, we really start picking up commuter traffic. And if you look at Cranbury itself, you’ll see that the roads divide into I think it’s ten or 12 lanes at that point. And then when you get up to Newark, it’s yet another road. And if you look at those statistics, if you go back and you examine Newark and you examine Cranbury, they have different issues -- they have different numbers than the Moorestown station has.

One of the things -- and I know this is a somewhat controversial issue, one of the things that I wanted to see done, and I think we’re in the process of doing it, is I want to see a violator survey.

SENATOR ZANE: I’m sorry?

COLONEL DUNBAR: A violator survey. I want to see who is, you know, do we -- what is it that we have -- look, Senator, when I approached this, when I came into this job, I didn’t have any pre-conceived notions. There are things about Moorestown, the Moorestown station, that I will tell you that I still don’t understand. We’ve changed all the commanders. We’ve changed the troopers. There’s something about that station, and I don’t know whether it’s 295. I don’t know whether it’s -- whether it’s the way the road is designed. I don’t know whether it’s the out-of-state drivers. I don’t know whether people drive faster down there. But Moorestown is different than almost every other station. Cranbury is somewhat akin to Moorestown. We are looking at the Turnpike. I think the Turnpike has made good progress. One of the things that -- one of the things that I have found, and this goes back to the other question that I got about a few bad apples, if you -- if you take -
- if you figure out that -- if a trooper makes 50 arrests a year, and an active trooper would have made about 50 arrests a year, if a trooper made 50 arrests a year and he stopped ten vehicles or conducted ten searches for every arrest that he made, pretty soon you’d end up with a number, if you had 50 troopers, you’d end up with a number of about 25,000. You’d end up with 2,500 arrests, but you’d have 22,500 people who would have been stopped. Who really, you know, they were just average citizens not having, you know, they’re people who basically would have been violated.

You know, do I believe that there was an over-emphasis on drug interdiction? Yeah, I do. Is that -- one of the other things, Senator Zane, that -- I’m not making excuses for troopers, but if -- and this will go right back again to my issue of perception. If people believe that -- if people believe that what they’re doing is right, it’s very difficult to -- it’s very difficult to -- for them to understand that what they could be doing is yes, they’ve arrested somebody, but in the long term, in the long run, they haven’t -- they haven’t really followed the spirit of the law. And, you know, I don’t -- and this gets to be a very touchy subject because I have never been an individual that’s been soft on crime. I think drugs are a scourge in our society. But I learned, in fact, I learned from an attorney a long time ago when I was 21 years old, 22 years old --

SENATOR ZANE: He must have been an exceptional attorney.

COLONEL DUNBAR: You know what? Today I know who he was; then I wanted to -- I didn’t think he was that exceptional. What he said was, “Don’t take it personal.” And it took me ten years, ten years to figure out what he was talking about. And, you know, we’re teaching now in the Academy in Essex corruptions of -- corruption of -- noble cause corruption. And what that means is that if you don’t -- the ends -- if you don’t -- how you do something is important as what you accomplish. And that’s a difficult message for some people to understand. And I remember when the article came out about drug arrests plummeting on the Turnpike, first of all, it sounds pretty hypocritical of the newspaper outlet to question the drop in crime after all of the negative -- the drop of arrests after all the negative comments that were made about the Turnpike and what they were doing. But there’s something more
important to me and I think there should be something more important to the State Police than just making arrests and that is making, you know, if we’re going to make arrests, let’s make them the right way.

You know, all of those statistics that you have, and this is one of the things that I really worry about, is we have gotten so hung up in stats. I mean I’ve got -- I have stats coming every single day. I mean -- in fact, one of the things that I got very angry about was -- I guess I’m not supposed to get angry, but I do, but one of the things I got very angry about was is that the State Police decided at some point that they were going to track white Hispanics because what they were afraid of was that if somebody was stopped and they had an Hispanic surname but they appeared Caucasian, that there be a question made that they were trying to falsify their documents. That they were trying to alter something. So they created the category of white Hispanics.

Now, if we’re talking about profiling, just profiling by itself, if you stop an individual that appears to be a Caucasian, I find it very difficult that that number will be included in the numbers for minority stops. But not through any surprise of mine, it’s been included every single time. And that’s okay too, because we’ll learn to -- we’ll learn to adjust to that. But that’s the type of problems that stats bring up.

You know, and I’ll say something else to you. That I’ve looked at the national statistics and the -- part of the Department of Justice has published or is in the process of publishing a report talking about searches and talking about stops and the interesting thing is is that the numbers are somewhat akin -- this is based on 1.3 million searches that were conducted throughout the country where they got voluntary information from. According to that number, the Moorestown numbers are right in the average and the rest of the state is doing a heck of a lot better.

SENATOR ZANE: Colonel, coming back to these numbers. Don’t they -- what percentage of your troopers are in Troop D versus what percentage are in the other troops?

COLONEL DUNBAR: Troop D has got somewhere between 210 and 220 --

SENATOR ZANE: And the total population of the State Police is what?

COLONEL DUNBAR: Well, you would want -- you would want the total A, B, C. I think A’s got
between 350 and four. B’s got about the same. And D
-- E and D are about the same. And then C is the
smallest troop, it’s got about 250 people.
   SENATOR ZANE: And again, you indicated
that you are familiar with the statistics that I
mentioned. Doesn’t it really say to you and
shouldn’t it say to Attorneys Generals that the
problem is on the Turnpike, period? It’s not with
the rest of the State Police?
   COLONEL DUNBAR: I don’t agree with that.
   SENATOR ZANE: Isn’t that what the numbers
sort of bear out?
   COLONEL DUNBAR: No, no. See, this is why
I don’t agree with that. And this is a question that
I asked every one of the troopers when I met with
them. If we have one person in a troop profiling,
one person profiling, is that acceptable? I don’t
think it is.
   SENATOR ZANE: Yeah, but would you agree
that you don’t have to go out and address the issue
of profiling in A, B and C, you have to address it
with Troop D?
   COLONEL DUNBAR: I disagree with that.
   SENATOR ZANE: You do?
   COLONEL DUNBAR: I disagree with that, and
then go back to the same answer that I just gave you
a minute ago. That my position is that as law
enforcement officers we have an absolute
responsibility and as a Superintendent, I will never
sit here and tell you that -- if I had one person in
the entire State Police profiling, I’d be looking for
that person.
   SENATOR ZANE: Well, then let me try one
more time. Wouldn’t that suggest that something
needs to be done differently on the Turnpike?
   COLONEL DUNBAR: Yes.
   SENATOR ZANE: And that something need not
necessarily be done differently where A, B and C
patrol?
   COLONEL DUNBAR: I disagree with that.
   SENATOR ZANE: Okay.
   COLONEL DUNBAR: The reason I disagree with
that is that I think on the Turnpike we have to look
-- we have to and we are looking much closer to see
what it is that’s causing this problem. For example,
I’ll tell you --
   SENATOR ZANE: That’s what I’m saying.
   COLONEL DUNBAR: Let me tell you. For
example, you know, I have another station that’s --
you’re in Gloucester County, right?
SENATOR ZANE: Yes.

COLONEL DUNBAR: I have another station that borders your county that I have some concerns about and we’ve taken some pretty dramatic action there too because the numbers -- that’s why I said, you know, this fascination with the numbers, Moorestown -- Troop D is one thing, Moorestown within Troop D is another thing. But there are pockets --

SENATOR ZANE: But since you are rotating troopers, and I recognize you’re saying a five-year basis, but if the problem has persisted there, doesn’t it suggest that it’s not the troopers, it’s something indigenous to the Turnpike?

COLONEL DUNBAR: And that’s the thing that I’m struggling with. That is the thing that I’m trying to find out what’s causing this. And where people may be opposed to the idea of a violator survey -- you know, Senator Zane, if a trooper is out there doing the job the way it’s supposed to be done, I feel I have to support him or her just as much as somebody, you know, just as much as I would be after somebody who’s not doing the job. And that’s why this to me has become a real challenge and, you know, I said in my opening statement about sometimes I kind of feel like a parent, that this is something that is very important to me. I’m looking for the answers. I want to find the answers. And I know it’s my responsibility. It’s not the Attorney General’s responsibility, it’s my responsibility. It’s always been the Superintendent’s responsibility to make sure that his or her people are protected. That we’re doing the right thing. And, you know, I have been lobbying for this violator survey, not because I think it’s going to be the only answer. You know, I was the one in the Attorney General’s Office that, you know, we had a meeting and I said, you know -- because I’m from South Jersey. I said, nobody in South Jersey use the Turnpike. I mean they use 295. They use 42, they use 295. So, you know, again, unscientifically, when I look -- when I look at that road and I see just out-of-state people, what are they looking to do? They’re looking to go from down in the Woodstown area, straight up to New York, just going through -- going through our state, and the chances are that they may be driving faster than even New Jersey residents would drive. That road is not as crowded as the road up north is. So there’s a lot of things that could be bringing this about. And I also think, and this is something that I also think that education plays a part in this and this is why I...
say the perceptions that you bring -- the perceptions
that you bring to the table -- and again, I go back
to my opening statement, if you think certain types
of people are involved in --

SENATOR ZANE: What do you mean by that?

COLONEL DUNBAR: Pardon me?

SENATOR ZANE: What do you mean by that?

COLONEL DUNBAR: What do you mean?

SENATOR ZANE: Well, you just said if you
bring the perception that certain types of people --

COLONEL DUNBAR: If you think --

SENATOR ZANE: Let me ask you this, because
I had a question similar to this and this gets to it
clearer.

What went through your mind when you said
certain types of people?

COLONEL DUNBAR: What went -- well, when I
used the term “certain types of people,” I was
referring to minorities.

SENATOR ZANE: Minorities.

COLONEL DUNBAR: Go ahead.

SENATOR ZANE: Well, you said something
earlier and, frankly, I didn’t get it all down so
feel free to correct me. But I noted here to ask you
what did you mean when you said something to the

effect that law enforcement has a better idea who
commits most of the crimes.

COLONEL DUNBAR: I didn’t say that.

SENATOR ZANE: You said something, I
thought, pretty close to that.

COLONEL DUNBAR: No, I don’t think I said
anything close to that at all. I talked about law
enforcement deals with a small percentage of the --

SENATOR ZANE: You said something about
let’s talk frankly, let’s be honest. We don’t
necessarily come into contact with a lot of people --

COLONEL DUNBAR: Right.

SENATOR ZANE: -- in law enforcement.

COLONEL DUNBAR: Right.

SENATOR ZANE: We have a sense of who -- I
thought you said, who commits most of the crimes.

COLONEL DUNBAR: No, no, absolutely not.

What I said is that, and this is I think pretty
accurate, is that when you come to law enforcement,
you come with your own perceptions. In law
enforcement you deal with a small portion of the
population.

SENATOR ZANE: Do you, as the head of the
State Police, have a perception that minorities
commit more crimes?
COLONEL DUNBAR: No.
SENATOR ZANE: Okay.
COLONEL DUNBAR: I think -- and I think that’s one of the big mistakes. I think --
SENATOR ZANE: I wanted to ask you that because I had the impression that’s what you were saying.
COLONEL DUNBAR: No, no.
SENATOR ZANE: Okay.
COLONEL DUNBAR: No, you’re dead wrong on that.
SENATOR ZANE: Okay.
COLONEL DUNBAR: What I’m saying to you, Senator Zane, is that, you know, in fact, it was an interesting thing, that I saw an article -- this goes back to 1994 in the Atlanta Journal in which they talked about the fact that nobody ever writes or nobody ever publishes -- it was a convention of minority media personnel, and they said that nobody ever publishes the fact that 95 percent of minority youths are not involved in crime. That figure, based on my experience in law enforcement, was, you know, I thought that it was a high figure, but then I went back and I looked at the figure and I looked at what the prison population is and so on, and -- or, for example, the prison population may be disproportionate. We have, I think, 2 million people in prison and we have 266 million people. That’s still a very small, very small percentage of people. Where you run into a danger is that when you allow your perceptions of who’s involved in crime to govern your actions, and I think that’s what I was talking about.

SENATOR ZANE: Within what other major troop is there a program of drug interdiction other than D?
COLONEL DUNBAR: I don’t know, I don’t think we have a drug interdiction program in D.
SENATOR ZANE: Isn’t there -- isn’t there some sort of a program or something? Aren’t there some federal funds tied to some program that deals with the Turnpike?
COLONEL DUNBAR: There used -- well, I think there used to be.
SENATOR ZANE: Not any longer?
COLONEL DUNBAR: No.
SENATOR ZANE: Is there a greater emphasis by the hierarchy of the State Police placed on the troopers that are on the New Jersey Turnpike to deal with “the drug problem?”
COLONEL DUNBAR: No.
SENATOR ZANE: Okay.
COLONEL DUNBAR: I can’t -- and again, when I say that, Senator Zane, I can’t speak about before, but I can speak about now.
SENATOR ZANE: Okay.
COLONEL DUNBAR: I can also tell you that there hasn’t been one day I have not had one discussion with a trooper commander in Troop D in which I said go out and make more drug arrests. My counsel to the troop commanders has been that look, go out, do your job. Do it to the best of your ability. Do it constitutionally. Have your people show compassion. Build bridges. I have also said, I have also told them -- as a matter of fact I told every trooper, I’m not going to defend the undefendable. But if we do the right thing, I’ll defend it. And it doesn’t, you know, matter to me who criticizes it. We’re out there, we’re trying to do the job the right way and if you can demonstrate to me that we’re doing the right thing, even if it doesn’t work out okay, I’m going to defend you.
SENATOR ZANE: You are a strong proponent of consent searches, I gather?
COLONEL DUNBAR: No, I’m not.

SENATOR ZANE: You’re not. The Attorney General indicated today that in this state he would have stopped consent searches but for your strong convincing arguments --
COLONEL DUNBAR: No, that’s --
SENATOR ZANE: -- that we should have it.
COLONEL DUNBAR: Again, I wasn’t here and what he said -- what my position is is that I don’t think that you should take away tools from law enforcement personnel without there being a reason. To be honest, if we don’t -- if we don’t do better, I’m not going to have to worry about anybody taking it away, because the Appellate Court is going to take it away. And if you go back and you look at the decisions, it involves consent search. It involves what we used to be able to do. For example, if a person didn’t have a registration in their car. It involves what we were used to be able to do if a person didn’t have a driver’s license on them. All of those things have been taken away from us. And I’ll tell you something else, too, I have found that when these decisions were being made, this was never conveyed to the troopers. So, I mean, I’ve started now a program where when these court decisions are made, that they are distributed to the troopers so
they know what the current law is.

You know, when I say about the rules, the
rules let us have consent searches and I don’t want
to take away tools that we need to fight in law
enforcement. But -- and this is the thing that I
when I talk to the troopers I tell them that to some
degree with some people we’ve lost the benefit of the
doubt. We have to fight to get back the benefit of
the doubt. We have to fight to keep -- to keep
things such as consent decrees -- I mean consent
searches and so on, because if we don’t, we’re going
to end up losing. But if the Committee or if the
Senate says, you know, that there should be a bill
passed to take consent searches off the table, then
that’s what we’ll do.

SENATOR ZANE: I have more confidence in
the State Police. I think that given the right
climate, given the right instructions, that again,
the bulk of the people will do it. There will always
be those that don’t get it.

SENATOR ZANE: Colonel, I think everybody
on this Committee feels the exact same way about the
State Police. That brings me to one other point.
You had mentioned about, in regards to a question
from I think Senator Girgenti, you had made reference
to the “bullies.” Do you recall that?

COLONEL DUNBAR: Um-hmm.
SENATOR ZANE: Tell me what you meant.
COLONEL DUNBAR: Just that, bullies.

People --
SENATOR ZANE: Within the State Police?
COLONEL DUNBAR: Yes.
SENATOR ZANE: And how are you dealing with
them?
COLONEL DUNBAR: Well, you know, I’m trying
to take them on --
SENATOR ZANE: Are they identified?
COLONEL DUNBAR: Are they identified? Some
of them are. Some of them we have cases on. Others
are out there. Bullies are individuals that, you
know, and I’ve used other terms for them. They are
people who I don’t think have any place in law
enforcement. And I guess bullies is probably about
as good a word as any in the sense that they need
their authority to prop them up. They don’t believe
in what I believe in. I believe that there’s a part
of law enforcement that is compassionate. I believe
that we are here to serve the people of the state.
All of the people of the state. I believe that the
law is as important as making an arrest, for example.
Bullies believe that you can -- because you’re in law enforcement -- and they exist not just in the State Police, they exist throughout law enforcement. But they believe because you are in law enforcement you can pretty much do whatever you want to do. They believe that in some cases they don’t have to do anything. They’re just not good employees. They’re not good people. But the State Police isn’t unique in this. I just returned from a conference of the National Executive Institute with Major Chese from across the country and that was one of the number one topics. You know, and I will also tell you that having gone there, you know, one of the things that -- one of the things that I found in the State Police is that where other departments have major corruption problems, we don’t. I mean we have this problem, but this is still a very good, very strong, very proud organization. And you know what? If it wasn’t, I don’t think I’d be sitting here today, you know, talking to you the way that I’m talking to you. I mean I am very proud -- you know, the thing that I’m probably the proudest is that despite everything that’s happened in the last two or three years -- and I don’t know of any agency that has been through more -- that has been through more review and, you know, whatever, but they haven’t missed a beat. Every call has been answered. Every major -- every major event that’s happened. Y2K. Liberty -- the thing in Liberty State Park, the National Republican Convention. All of the things that they’ve been called upon to do, they have done. And you know what? Even beginning this year, our statistical accomplishments as far as traffic enforcement and everything, all of those things for the most part have also increased.

So these are some resilient people. And, quite frankly, I’m tired of the people who don’t want to -- who want to make all the noise, but don’t bring anything to the table, getting all the credit. Or getting all of the press. I just -- a good 90 percent, 80, 90 percent of this organization -- we just graduated a class of people today and they were extremely proud. I met one police officer, he had been a police officer for 15 years and he came with us as a State Police. He’s a brand new recruit trooper. Why do people do that? Why is that across the country when I go to the meetings, that other departments can’t find enough recruits? Portland, Oregon just dropped its college requirement because it can’t find enough recruits. LAPD has to go across
the country because it can’t find enough recruits. We not only find enough recruits, but we have the highest percentage of minorities that we’ve had in 11 or 12 years and I’m told it isn’t good enough? I’ve graduated 20 to 25 percent minorities in every one of the classes that have graduated and probably will graduate the same in the rest of the classes and they’ve met all of our standards and I’m still told that that’s not good enough? You know, we’re doing pretty good. And do we have all our problems solved? No.

SENATOR ZANE: Colonel, I think, and I’m speaking for myself, but I’m not -- I certainly heard comments from other Senators that sit on this Committee, and if they want to chastise me for speaking for them, let them do so, but I don’t think they will. I think the vast majority of us sitting here through these days, hours, long nights, and I certainly have myself walked away with the feeling that the State Police, as far back as 1996, wanted to address this issue of racial profiling, made every effort to address the issue of racial profiling by bringing things to the attention of those in authority. And I found that those in authority turned their back on those efforts. And I think some of the -- some of where we are today is because people didn’t listen to the State Police. And I hope what I’m saying to you makes you proud of the State Police. Certainly the ones that I’ve seen here that came in and testified, because they sure as hell made me proud of them. They recognized the problem, whatever the problem was from within, they made an effort to address.

Thank you.

COLONEL DUNBAR: Senator Zane, if I just can comment on that.

I agree with you to a point. Leadership I think is a key issue. In fact, I think when I was here, you probably asked some of the more difficult questions my first time --

SENATOR ZANE: Is that why you didn’t speak to me when I bumped into you in Salem? Just kidding. Just kidding.

COLONEL DUNBAR: Hey, you know, what goes around, comes around.

(Laughter)

COLONEL DUNBAR: But I’ll speak to you next time.

SENATOR ZANE: Good.

COLONEL DUNBAR: In fact, if you give me
your license plate number, I’ll speak to you right after we get done here.

(Laughter)

SENATOR ZANE: Z-1.

COLONEL DUNBAR: You know, let me just tell you something about leadership. If you look back at Title 53, the Superintendent in this state has some unique powers and authority. I am not one to cast blame on those outside. I have a tremendous amount of authority within the organization. And one of the other things that I tell my people is that the Superintendent has a responsibility that his job or her job, for that matter, should never be so important to that individual that they’re afraid to walk. And I will tell you, in dealing with John Farmer, there have been occasions where we’ve come to the point where I’m like I’m not going to do that. And you can order me to do it, but I’m not going to do that.

SENATOR ZANE: Now, we know what he was referring to this morning.

COLONEL DUNBAR: Well, that was of a different issue. That was on the release of some names that I didn’t think should be released and I said you can get a court order, you can order me to
do it. And I’ll tell you, even if they ordered me to do it, if I felt that it was wrong, I would leave. And that is what -- that is what -- I think one of the questions that the Committee had to me before was leadership. That to me is what I was taught that leadership is. That you never let your people down. And there are things that, you know, my question is is that you have the Attorney General’s Office, you have the State Police. I think things need to be examined thoroughly. What did the State Police do for itself? What did the Attorney General’s Office do? And maybe, as I said, that -- Senator Zane, trust me, there was an air of distrust between these two agencies, something that I’ve really never seen before. And it still exists to some degree now. I’ve spent a lot of time working for whatever distrust there was, and still exists. The progress that we’ve made has also been a progress of the two agencies working together. I don’t believe that it would be fair to just say that the Attorney General’s Office alone bears the responsibility. If, in fact -- if, in fact -- and I have not seen this yet, if, in fact, it got to the point where we’re saying we’re going to do this unless you tell us we can’t do this, then the responsibility lies in the other. If that
happened, and that’s fine.  
But a lot of the things that I’ve seen were things that really are under my control.  I can’t, because I wasn’t at the meetings and because I didn’t write those documents and because -- I can’t speak to what really happened there.

SENATOR ZANE: Colonel, you’re there.  
You’re the Harry Truman of the New Jersey State Police.  The buck stops with you.  What recommendations do you have?  And I recognize you’re there 18 months, but what recommendations do you have to us as a legislative body to address the issue?

COLONEL DUNBAR: Okay.  My number one recommendation to you is is that don’t let morale or the issue of morale cloud everything.  Examine what morale is.  Examine what people are saying.  Examine what we’re doing.  Examine if we’re moving in the right direction.  Ask questions.  I think these type of -- I think these type of Committee hearings are, although somewhat unusual for Trenton maybe, I think they’re productive.  I think putting -- I think John Farmer took a -- he may regret it now, but he took a very brave step in releasing those documents because I think it needed to be done.  There are a lot of people, my counterparts throughout the country, that

consent decrees.  I’m not a big fan of them, but you know what? I use my consent decree.  I use it because I use the Monitor to come in and I use them to tell me where we’re making mistakes.  Where we haven’t gone far enough.  I think that that type of -- that type of an environment where you’re basically called to task is not necessarily a bad deal.

SENATOR ZANE: Well, you’re saying don’t get distracted with issues of morale, but what in the legislative area, that’s the business of this body, what suggestions do you have?  What can we do?  You began your statements by sort of chastising us.  I think you said it’s been around a long time.

COLONEL DUNBAR: Chastising?  I would never chastise you, Senator.

SENATOR ZANE: Began by telling us the problem has been around a long time.  We really haven’t done --

COLONEL DUNBAR: Well, you know what?  I mean --

SENATOR ZANE: What do you suggest we do?  You look at it, you live it every single day.

COLONEL DUNBAR: Close oversight.

SENATOR ZANE: I’m sorry?

COLONEL DUNBAR: I said close oversight.  I
think that -- I think the State Police is a revered institution in the state and I also believe that absolute power can corrupt. And I think from time to time, you know, whether you do it -- I don’t know whether it has to be in a public setting, but whether you -- if you have questions about the organization, that the Superintendent is called in, is asked about what’s going on. You know, what the issues are.

SENATOR ZANE: Do you think there should be different standards for even requesting a consent to search, since you don’t want to give up that tool?

COLONEL DUNBAR: Do I think there should be different standards? I think --

SENATOR ZANE: Yeah.

COLONEL DUNBAR: -- that there should be one standard.

SENATOR ZANE: And should it just be probable cause?

COLONEL DUNBAR: Well, if you have probable cause -- if you have probable cause, I don’t think -- reasonable suspicion, I think, is the -- probable cause you don’t have to, you know -- if I’ve got probable cause, I don’t need your consent.

SENATOR ZANE: You’re right. You’re absolutely right. What should it be? What should that standard be?

COLONEL DUNBAR: What should the standard be?

I think reasonable suspicion is a good standard.

SENATOR ZANE: Reasonable suspicion and articulable...

Suggestions?

COLONEL DUNBAR: I mean -- actually, I mean, I guess I would -- you know, it’s -- I’m in an unusual situation that because of the good Legislature we have, I think --

SENATOR ZANE: Should reasonable suspicion be something else? That’s really what I’m trying to say.

COLONEL DUNBAR: Should reasonable -- no, I don’t.

SENATOR ZANE: You don’t think it should.

COLONEL DUNBAR: I think reasonable suspicion is -- the problem -- the problem that you have with reasonable suspicion is, is it reasonable suspicion? Knowing what reasonable suspicion is. And this is one of the things actually -- and in the case of Moorestown that we’re working with, that we’re looking back is what you thought to be reasonable suspicion, is that really reasonable
SENATOR ZANE: Senator Lynch spoke earlier with the Attorney General and talked about how little fruit really comes out of all of this and is it really worthwhile.

COLONEL DUNBAR: I think on a national average --

SENATOR ZANE: Subjecting people.

COLONEL DUNBAR: On a national average, when I told you about the 1.3 million searches, 17 percent of whites were found to have something. Eight percent of -- I think eight percent of African-Americans were found to have contraband. And ten percent of Hispanics were found to have contraband.

SENATOR ZANE: Colonel, I don’t want to leave this opportunity thinking that you don’t have any real suggestions if you do. And if you do, please tell us what they are. If you don’t, well, then I guess that’s --

COLONEL DUNBAR: I don’t -- I don’t have any -- I mean I don’t really have any.

SENATOR ZANE: Thank you.

SENATOR GORMLEY: In terms of morale, we’re going to book members of the Committee whenever you’re engaged in training with the next recruit class. Some of the members of the Committee want to run with them on the three or five-mile run to show their support, okay? Mr. Chertoff and I are already volunteering. The rest of the Committee, I see Senator Robertson’s very excited. They’re very excited. So in --

COLONEL DUNBAR: Give me the date and I’ll be there with you.

SENATOR GORMLEY: Oh, I think we will be available for that.

Next. Senator O’Connor. Who is a marathon runner, by the way.

SENATOR O’CONNOR: Former. Former marathon.

SENATOR GORMLEY: Former marathon. Oh, please.

(Laughter)

SENATOR O’CONNOR: Twice, but many years ago.

COLONEL DUNBAR: That makes two of us.

SENATOR O’CONNOR: Colonel, I was listening to your answer to Senator Girgenti early on about morale. And I must admit that I had a different sense of where you were on that than I do now after
hearing some further questioning on that by Senator Zane. And I was wondering -- and the fact that you have a class of state troopers that graduated today, and I think you pretty much answered this in your response to Senator Zane, is it your sense that these new troopers have the same sense of pride in becoming state troopers as classes that preceded them have had?

COLONEL DUNBAR: Absolutely. Absolutely. And I’ve spent two hours with each one of the -- two to three hours with each of the graduating classes and I do it at the end of the term and I talk to them about how important it is to be able to stand up for yourself and just something as simple as at the end of eight weeks now we tell the recruits, if you don’t want to have a shaved head, grow your hair. I mean you’ve got a military cut, and the whole point of that is that I want them to be strong enough that when they get out on the road, even as a brand new trooper, to make decisions for themselves. I’m putting these people in a very, very complex world. A world that is so complex that I couldn’t have imagined it years ago. And one of the untold stories that I have seen through the videotapes is how -- I guess, you know, as I use the term bullies for troopers, how nasty some of the public can be in their motor vehicle encounters. And I have to prepare my people for that. And there was some question about well, you know, you changed this standard. You changed that standard. We’ve been changing standards all the time. But those people that are graduating today, the people that graduated a couple of weeks ago and the people that are going to graduate three weeks from now through the 28th of May, they have gone through all the same training. They are just as proud. And as I indicated, when you get an individual who leaves the police department after 15 years of service to come onboard with us, I think that says something about us. And I think just like in the Marine Corps, that you have to be very careful about tradition. You have to be very careful about the image of your organization, because the only -- the only military agency that recruits, that meets its recruitment goal consistently is the United States Marine Corps. And the reason for it, I would submit in part, is because of their image. Because there’s something special. And you know something interesting about the Marine Corps? Is that while it has all that tradition, while it has all those other things, they’re the one Service that constantly
changes. They adapt to missions almost on a yearly basis. They go anyplace, anytime and they get the job done. And not that, you know, not that we’re the Marine Corps, but I think we’re kind of the Marine Corps of New Jersey.

SENATOR O’CONNOR: Well, as a former Army officer, I would take exception somewhat to that.

COLONEL DUNBAR: Well, you can take an exception if you want, you know. My dad spent 26 years in the Army and there is a difference.

SENATOR O’CONNOR: Like some of the other members of this Committee, I started my career as an attorney, as an assistant prosecutor and I had experience in those days working with the State Police, particularly on gambling cases. And I know that long ago I had the sense that this was the elite police force in the State of New Jersey. And my sense from what you said about how the recruits come out and how they’re trained, et cetera, is that there is still that sense today, that this is, in fact, the elite police force in the State of New Jersey.

COLONEL DUNBAR: This has been -- this has been probably -- no, there’s no doubt, this has been the worst three years I think in the history of the State Police. And it’s been terrible because it’s a constant battering that we have endured and it is keeping that image, and keeping that opinion is very important. And that’s one of the reasons that I hope that when these hearings are over and the issues have all been surfaced, that we can go back and bring about change in a little bit more of a closed environment, because change is still very desperately needed in order for us to meet the challenges of the century. In order for us to be elite, you just don’t become elite. You become elite by going out and practicing your trade craft and going out and being the best. You can’t just announce I’m going to win the Super Bowl. You have to go out and actually win it. And I’ll tell you, I think that as the State Police goes forward to meet the challenges of this new millennium, it is going to have to be more dynamic. We have a tremendous computer crime unit. Those type of things are our future. But if we can’t -- if we lose faith with the people, we’ve lost everything. And I think that this issue of -- this issue of compassion, I think is just as important to law enforcement as arresting. And again, I go back to General Schwarzkopf where he talks about the prevention of crime and making sure that you have the good opinion of the people. I mean this is in 1921
he said that. And, you know, all of us in this room
are public servants and if we’re not about getting
the good opinion of the people, and that means all
the people, then I don’t think we’ve done our job.
SENATOR O’CONNOR: Colonel, what’s the, if
there is, an average length of service for a trooper?
What do you expect for the average --

COLONEL DUNBAR: I think the bulk of the
State Police stay 25 years. My classmates, I think
probably about half my class is still around and they
graduated in 1973. But 25 years is really the point
where you’re eligible to get a pension. We really
have very few people that leave. And the ones that
do leave, go to other law enforcement agencies that
they believe have, you know, provide more advantages
to them, you know, whether it be the DEA or the FBI
or Secret Service. But we don’t have a tremendous
turnover rate.

SENATOR O’CONNOR: You’ve testified that
you’ve been having minority inclusion in the most
recent classes to the extent of 20 to 25 percent. I
asked the Attorney General this morning what the
percentage of minority in promotions were. Do you
have a -- he didn’t know the numbers. Do you have
some handle on how many NCO’s and officers you have

now?

COLONEL DUNBAR: I don’t have that number
offhand. I know that -- well, see, the percentages
could be somewhat misleading. Like, for example, I
could tell you that we increased African-American
Lieutenants the last time by 100 percent and that
would sound pretty good. But if I told you the
number was two, it would be a little bit, you know, a
little bit less. And that’s one of the problems.
The last promotional cycles we did increase
minorities at the rank of Lieutenant by -- we doubled
it. And the next promotional cycle, the next
promotions we have I think we’ll probably see close
to six or seven minority or women Captains, which
will be the largest number in the history of the
State Police. Now, I say that because they’re acting
Captains now. Unless something goes wrong, they’ll
move forward. We still will not have a large
representation. We will have no women above the rank
of Captain. We will have one Hispanic above the rank
of -- above the rank of Captain. And that’s out of --
- let’s see, we have I think nine Majors. One is an
Hispanic. We have no African-Americans. We have two
Lieutenant Colonels. But that’s another thing too
that there are those that would have me rush and just
put people in positions and I think that that’s unfair. The people that are moving into the Captain ranks, they deserve to be there. They’re all good people. They all know their jobs. And they will be the cadre of people which we will be able to select from for Majors and then possibly Lieutenant Colonels later on.

So we are making progress. And again, everyone expects or has, since I’ve been here -- I think I was here three or four months and people would say well, why aren’t all the problems resolved? You know, it just doesn’t happen that way.

SENATOR O’CONNOR: Thank you very much.

SENATOR GORMLEY: Senator Robertson.

SENATOR ROBERTSON: Thank you, Mr. Chairman.

Good afternoon, Colonel. Thank you for coming today.

I want to ask your opinion on something. The question I’m asking is not in the nature of asking for an explanation, it’s really in the nature of asking for your opinion, your best educated opinion on everything you know.

We were given some statistics this morning by the Attorney General concerning consent searches.

And those statistics included find rates as well as consent search request rates and so forth. And one of the things that was striking about it was that the find rate was not even the same throughout the racial composition, but actually was lower for minority drivers than for non-minority drivers. And yet the consent request rate, which I’ll call a suspicion rate, was actually three to four times higher, depending on what barracks you looked at. And I guess my question is this. Why do you think that is?

COLONEL DUNBAR: Perception. That’s what I’ve been talking about all day, is that, you know, Senator, if you became a trooper, you would bring to the job your own perceptions. Your growing up. Your education. What you think is right and what you think is wrong. And perception is really a difficult -- really a difficult issue. There’s a scholar that says, “We see things as we are, not as they are.” And that really kind of underlines. If you see things, you know, the number that you talked about, the national study that I referred to, found the exact same thing. It was 17, 8, 10. Eight African-Americans. Ten Hispanics. And 17 white males. The perceptions that you bring to a job, that’s why in the Lawrence case, and I had not looked at the word,
but the term “unwittingly,” I think you can engage in racial profiling unwittingly. And that becomes a real sore point because you think you’re doing the right thing. You just think that you’re acting, but you’re unwittingly. Now, it doesn’t make it any less onerous for the individual that it’s happening to. But that’s one of the things. And I think -- my hope is at some point people will seek to understand what causes this as opposed to just looking at numbers and looking at consequences and looking to poke somebody’s eye out. You know, I don’t know if you know this, Senator, in 1990 -- in 1990 arrests in the State Police for drugs went up from 5,000 to 10,000 in one year because there was a zero tolerance. The next year it dropped back to 5,000. Now, I fear was the envelope pushed back then? Were people told to go out and numbers -- numbers are the end all? You know, I don’t know. But perception, perception I think is the real evil here and the perception can be something that you want it to be or it can be an unwitting perception. And one of the most difficult topics to teach is cultural diversity. Everybody feels -- when you teach cultural diversity, everybody feels that it’s automatically something that, you know, you’re on the defensive. What are you saying is wrong with me? What are you accusing me of? You know, I’ll give you a solid test. You know, go someplace one day and have something happen to you and, you know, check your own memory bank. Jessie Jackson is quoted as saying, he was walking down a street somewhere late at night and when he turned he was relieved to feel that it was a white face following him, not a black face. That too is perception. That too is -- that too is very sad. It is extremely sad that you have those perceptions. We have to learn -- we have to work to overcome those perceptions.

This is no -- this racial profiling you’re struggling with I struggle with every single day. And, Senator Zane, you said you read a lot of documents? I read them by them boxfuls. There is no easy answer. And when you have good people that think that they’re doing the right thing and they’re not, and they’re not, and unwittingly not, trying to convince them that this is not the way to go about doing the job, is very, very difficult. And I’ll tell you something else, everybody in this country, every police department in this country is going to struggle with this. And if at some point crime goes up, we’re going to take a step back. All you need to
do is take a look at New York. New York in 1994, 1993, had 2,600 homicides. The police department became very, very aggressive. Today’s homicide rate is seven to 800. And now we’re looking at other issues. They too, are going to a kinder, gentler police department. Because as problems change, the inferences for law enforcement also has to change. You have to adjust. You have to do what the Marine Corps does, adjust to the mission. And if you don’t do that, you run into problems. But that -- what you’re talking about, Senator, is really the heart of it, perception.

SENATOR ROBERTSON: And it’s funny, you might be glad to note that when I made note of that question, it was just above the notation I had made of what you said, which was the problem comes when you allow your perception to govern your action.

COLONEL DUNBAR: Right.

SENATOR ROBERTSON: And, in fact, that was the answer to the question. And I’ll also note to you that one of the reasons I was a little late coming into this particular portion of the hearing was I was having the exact same conversation with an observer of these hearings out in the hallway where the exact same points were being made about how perception enters into decisions, even of people who are acting in good faith. And one of the things that I’ve been trying to say throughout these entire hearings is that there is a race consciousness that is in all of us and that that’s the thing that we have to begin to acknowledge and to come to terms with or else we’ll never be able to lead each other. And that’s really what has to happen. To lead each other out of this situation.

COLONEL DUNBAR: You know, if we -- Senator Zane, if we could legislate what he just said, this would be a home run. That’s -- and that’s the thing that I’ve been struggling with. And that’s the thing that I think that’s been missing in this whole hearing.

SENATOR ROBERTSON: I agree.

COLONEL DUNBAR: Is that the issue isn’t who did what, where or when, I mean because we’re all involved in this. You’re involved. The Governor is involved. The State Police is involved. We’re all involved. And, you know, this country is unique in that we have so many diverse people. What bothers me a little bit is that as we struggle through this, there are those out there that are taking advantage of the situation and that also is taking place. And
I see that in the videotapes. I see that in the complaints that people -- and that has led me to prosecute five people for filing false complaints against the State Police because they were so blatant. And we will proceed to try to bring down our complaints. People are blatant because they’re misusing this time and we’re trying to -- we’re trying to discover what we must do.

But, you know, as young as this country is, some of these issues we’ve been struggling with for years, the civil rights laws really weren’t passed until 1963, ’64 and even though it’s been 36 years, we still have a long way to go. And we also have to be very cognizant of those people who want to take advantage of the situation as opposed to those people who are genuinely interested in the issues. And the issue is an issue of perception. It’s an issue of -- and for those people who are going to look for the answers just in statistical data, it’s important, but it’s not the end all.

SENATOR ROBERTSON: Oh, no. It’s actually -- but it is an important starting point.

COLONEL DUNBAR: It’s an important starting point because you need to be able to identify where you have problems. And then go in and hopefully, you know, one of the things that -- if I just -- we had a trooper stop a person and I reviewed the tape. It was a 40-minute stop. And it was, you know, it had racial overtones and such and I took that tape to the troop commander personally. I said I want you to review this tape and I want you to look at this. And then I want you to come and see me. And he came to me and he said, “I can’t believe this.” And I said now I want you to have your Sergeant and your Lieutenant come in and I want them to review it. And they came in and they said they couldn’t -- then we called the trooper in. And this trooper had a master’s degree. He’s a hardworking trooper. And I was ready for a lot of different excuses. What I wasn’t ready for was what he said and what he said was, “I can’t believe that’s me.” Now, I will tell you, I got my master’s in counseling and when I got my master’s, one of the things that we did is they showed you videotapes. And I also couldn’t believe what I was doing in my counseling sessions and I think that’s part of it too, that that trooper did things unwittingly. And I told him, I said, how could I ever possibly defend -- there wasn’t any legality that was involved, but how could I ever defend what you’re doing in the public? And, you
know, that trooper even allowed us to take that videotape and use it for training purposes. And that again taught me something that there are some people that are doing things that they don’t know that they’re gruff. And, you know, you marry that up with the fact that a lot of troopers end of day in and day out -- we have 450,000 what I call negative interactions every year. Those are the tickets we give. There aren’t too many people that are real happy about getting a ticket. So if you’re issuing ten, 20, 30 tickets a month and let’s say half of them people are real nasty to you, you do a year, two, three, by the time you get about ten, 15 years, you really get worn. I mean I looked at myself in the media for the last two and a half years -- or last two years and, you know, things do get said. I could never be a politician. I mean it’s just -- it’s just too brutal. I mean it’s just -- really, it’s just too brutal.

And those perceptions, when they have those negative encounters, those perceptions just build on and on and on. You know, I worked down in South Jersey as a trooper and after a while, whether I was working in Woodstown or Bridgeton or Mays Landing or whatever, after a while they would just tell you, go to Jim’s house, he’s having another domestic dispute. You’d go to the same places over and over again and that becomes your whole world. You don’t know anything else in any other part of the community except for those particular areas. And if you don’t think that that taints you, it does. I have read every Internal Affairs investigation conducted by the State Police since I’ve come in. Every one of them. I go home with boxes every weekend because I need to know what’s going on. But what I fear, what I fear is that that is tainting me. And yet I’m only really seeing 100, 200, 300 people out of a total of 2,700. And it scares me to death. On one hand, I don’t want to give up looking at it because I need to know what’s in there. I need to know that we’re on the right road. On the other hand, I’m telling you, it frightens me what it does to me because it’s changed my opinion.

SENATOR ROBERTSON: And that really permeates throughout society. Through the civilian population as well. We are conditioned -- well, I mentioned to the gentleman outside, I said whether you’re black or white or whatever, an interesting exercise to do is picture in your mind a rapist. Picture in your
mind a gangster. And regardless of what the specifics of the profile in your own mind may be, the fact of the matter is that you will develop a profile. You will have a picture based upon what you’ve been conditioned from everything to which you’ve been exposed throughout your life, whether it’s the evening news or the morning papers or the movies or in personal experience, and you lay on top of that the trooper who’s received training on drug interdiction, has been told what statistics are, who are exposed to situations that the rest of us would never want to be exposed to, and that is something that is dealt with on an everyday basis, along with the tension of the job, that every time they make a stop and walk up to a car, there could be a real problem. And when you begin to look at all that, you begin to see the human element on both sides. And I really think it’s important, and I’m so glad that you said what you said, because this is a dialogue that needs to be had. And it has to be one that doesn’t revolve around police versus civilian, Democrat versus Republican, black versus white. And I want to congratulate everybody on this Committee and thank you, Mr. Chairman, to the extent to which -- for the extent to which this has been a bipartisan exercise and we’ll all, whether it’s informally or formally, trying to get at the same thing. Because these are issues that we have been struggling with as we’ve had to pay our fullest attention to them. And I think that you’ve made a real contribution to that dialogue today, Colonel. And I thank you and thank you, Mr. Chairman.

COLONEL DUNBAR: Senator, you know, when I talked before about morale, I don’t think there are many people in the State Police that feel stronger about the State Police than I do. But what you talked about is what I have to try to get across to them. And that is -- that is, after all they’ve gone through, that’s a very difficult thing to do. And that’s why I said that if they need somebody to dislike, if they need somebody to hate, or if they need somebody to take their aggression out on, you know, I got big shoulders. They can do that.

SENATOR ROBERTSON: Well -- is subordinate to that, because you’re too important.

COLONEL DUNBAR: But the bottom line is, is that I need them, I need them to understand exactly what you said, that until they come into contact with their perceptions -- and there’s another aspect, too, you know. If the numbers are truly what they appear
to be disproportionately, there’s a lot of people
getting away that we ought to be looking at that may
be involved in a crime.

SENATOR ROBERTSON: But that’s why the
statistics are such a good starting point. You can’t
rely on them as the bottom line to anything, but at
least they illustrate the questions that need to be
dealt with, which is good.

Thank you, Colonel.
Thank you, Mr. Chairman.
SENATOR GORMLEY: Thank you.
Senator Kosco.
SENATOR KOSCO: Thank you, Mr. Chairman.

I just have one question. I asked the
Attorney General this morning the same question.

Do you think that you would be more
effective in your position if your position became a
Cabinet member rather than under the Attorney
General’s Office?

COLONEL DUNBAR: I have kind of a different
spin on this. When Title 53 was first started, it
had two provisions. One, we’re a separate
Department. And two, the Superintendent had five
years tenure. And when you have -- as county
prosecutors have a five-year tenure, the

Superintendent’s tenure is pretty much the same.
That if you have five-year tenure as a
Superintendent, you have a lot more freedom than you
do if you, you know, if you’re basically just serving
at the pleasure of whoever. I think that -- I think
five-year tenure for the Superintendent, you know, if
you look at the FBI, for example, Director Free, when
Hoover died they created a ten-year tenure for the
Director. And that was specifically done so the
Director of the FBI could remain independent and
could basically outlast any administration. He could
still be removed for cause, but he has that tenure.
So you really can remain somewhat apolitical. And I
think you know, Senator Kosco, that we have some very
strong associations that represent their rank and
file and what they want and what I think is good for
the State Police may not necessarily be the same
thing. And sometimes, as I indicated just as the
issue was apparent, you have to -- you have to do
things for the good of the organization as opposed to
the good of the individual. I don’t know -- if
you’re talking about having a separate Department,
you know, you’re talking about some duplication. You
know, you would have to have separate budgets,
separate -- you would actually have more
administrative -- I think more administrative costs. As you probably know, I think the Department of Law and Public Safety is 8,000 people, 4,000 of which are in the State Police. We are the largest entity therein. We were a separate Department I think until 1948, 1950. The Superintendent had the five-year tenure I think until 1970. So that I think is more a governmental question. I don’t really -- I actually feel comfortable. But the reason I feel comfortable is that I have what I think is a good Attorney General. A person that I can talk to. And I’ll tell you, I’ve done battle with Division heads over there. I’ve done battle with the Director of State Police Affairs. And, you know, as I said before, I’m not afraid -- I’m not intimidated whatsoever by the Attorney General. And if he wanted me to do something I thought was wrong, I would what I felt was appropriate.

And again, I come from a model in the FBI where the Attorney General -- there’s a parallel. The FBI under Hoover was pretty independent. I mean they pretty much were independent. When I became an agent, that was changing. Today, the Attorney General is, there’s no question, the Attorney General runs the Department of Justice. The Attorney General approves all of the senior positions in the FBI. But the FBI is still a very strong, it’s a very independent organization, to the point that the Attorney General, former Attorney General Reno and Director Free, both publicly fought, disagreed, but they both still respected each other. So I think if you have that independence, you don’t need to have a separate department. But the issue of splitting, that’s -- that’s something that I think that can be looked at. But I think you have to weight the pros and the cons.

SENATOR KOSCO: Thank you.
SENATOR GORMLEY: Thank you.
Jo.
MS. GLADING: Good afternoon, Colonel. I just have a couple of quick questions.
COLONEL DUNBAR: These are going to be the tough ones, right?
MS. GLADING: No, sir. They may be harder than some of the ones you’ve been getting though. The promotional process that -- well, my understanding is that there were no promotional guidelines effectively prior to 1999 -- or prior --
COLONEL DUNBAR: I would dispute that, but they were -- maybe the operative word was
“effective,” “effectively.”

MS. GLADING: Um-hmm. I understand you’re instituting new promotional guidelines, is that correct?

COLONEL DUNBAR: We are beginning the process of having stronger promotional policies.

MS. GLADING: You’re beginning the process of having a stronger promotional process?

COLONEL DUNBAR: Um-hmm.

MS. GLADING: Okay. Are you having -- are you instituting guidelines for promotions?

COLONEL DUNBAR: Well, for example, one of the things we’ve instituted is testing. The Attorney General made a promise and we delivered that we would have a test for the next promotions. And this only goes up to the rank of Lieutenant. From Lieutenant up is a different procedure because they’re appointed by me. But we have -- we’ve already tested everybody. In fact, the last test was the 28th. We’ve also included review of Internal Affairs and EEO issues in any promotions that we do. And we are still working on a master plan for promotions in the future.

MS. GLADING: When do you think you’ll have that master plan completed?

COLONEL DUNBAR: Are you writing this down or can I --

MS. GLADING: Beg your pardon?

COLONEL DUNBAR: Are you writing down the date or --

MS. GLADING: Well, it’s being recorded.

COLONEL DUNBAR: Let’s see. We’re working with -- I think it will be probably within another year or so.

MS. GLADING: So the current test that applies goes up through -- goes up to and including --

COLONEL DUNBAR: Lieutenant.

MS. GLADING: -- Lieutenant?

COLONEL DUNBAR: Right. Now, on the Captains, what I’ve done with the Captains is that I’ve opened it up. I’ve changed it by SOP where now in most cases individuals can be -- you canvas, anybody can apply. You have to do a certain amount of interviews. Some of the interviews have to be from outside of your section. The interview panel is structured a certain way where you have -- it’s not just the section that’s selecting that particular Captain.

So we’re changing -- I have no -- I mean I
can just appoint a Captain. And in some cases, I mean, I still reserve the right that in some cases if I think a particular Captain needs to be appointed, we will do that. And I would say that probably maybe one out of ten or two out of ten I appoint as opposed to this new process that we have.

MS. GLADING: Okay. So you put in a process for Captains -- promotions to Captains as well, but you don’t necessarily always use that process. Sometimes you just make a decision to promote someone. Okay.

Have you instituted new standards for employee evaluations?

COLONEL DUNBAR: Yes, we have.

MS. GLADING: When did those go into effect?

COLONEL DUNBAR: They went into effect I believe -- I believe January of this year.

MS. GLADING: And what’s new about them?

COLONEL DUNBAR: They’re a complete new -- they’re a complete new performance appraisal system. We’ve also for the first time gone back to include -- to including Lieutenants and other officers. Where before, Lieutenants got one performance evaluation and that was it so we’ve changed it.

MS. GLADING: One per year you mean?

COLONEL DUNBAR: No, no, they just got one. When they made Lieutenant, they got one the first year and that was it.

MS. GLADING: Now, Lieutenants are getting appraised annually, is that right?

COLONEL DUNBAR: Annually and Captains and Majors and Lieutenant Colonels also.

MS. GLADING: You talked a lot today about recruitment and initiatives undertaken to improve recruitment. What was the minority representation in the last class?

COLONEL DUNBAR: Well, you mean today’s class? Last week’s class? This whole --

MS. GLADING: Well, what’s the number of today’s class?

COLONEL DUNBAR: Today’s class we had thirty --

MS. GLADING: Today is the one hundred and --

COLONEL DUNBAR: 120th. We had 36 graduates -- 37 graduates. Thirty were white males. Four were African-Americans. Two were Hispanics. And one was an Asian.

MS. GLADING: Okay. I’m sure you’ve heard
concerns raised by troopers about nepotism within the State Police and about --

COLONEL DUNBAR: I think the term was “nepotism and cronyism.”

MS. GLADING: Beg your pardon?

COLONEL DUNBAR: Nepotism and cronyism.

MS. GLADING: Yeah. That’s right. And some of the concerns that have been raised in the context of the 118th class --

COLONEL DUNBAR: Well, let me -- go ahead. Go ahead.

MS. GLADING: -- raised concerns about nepotism, particularly the test scores that were changed. Is there any ongoing investigation into activities that went on in the selection of the 118th class?

COLONEL DUNBAR: The 118th class investigations have been concluded. I’ve reviewed them. I’ve recommended disciplinary action. And?

MS. GLADING: And has it been taken yet?

COLONEL DUNBAR: The disciplinary action?

Some of it has, some of it has not.

Now, I want to mention something. Since you brought up nepotism. You know, nepotism can also be family tradition and, you know, I think that the fact that some sons or daughters choose to follow their parents or their brothers and sisters into law enforcement should not be viewed as negative. Now, where it does become a problem, and I think it was pointed out in the two investigations, when unusual things happen --

MS. GLADING: Well, I specifically -- I was not necessarily -- I didn’t mean to be critical of family traditions. I was asking about cases in which --

COLONEL DUNBAR: Well, but people always throw out that --

MS. GLADING: -- in which test scores were changed or in which --

COLONEL DUNBAR: Well, people always throw out --

MS. GLADING: -- a background investigation had been previously failed and the person got into the next class.

COLONEL DUNBAR: Well, see, you’re not quite correct on what you’re saying there.

MS. GLADING: Correct me.

COLONEL DUNBAR: Well, I will. The background investigation in one case could, in fact, a person could, in fact, not be qualified and then
subsequently that person could reapply and whatever issue there was could be -- could, in fact, be resolved. What I will tell you, I think if you’re talking about the two cases in the 118th class, there are two investigations I think that came out of that. I share your concern and I think that there was cause for concern in those particular cases.

MS. GLADING: They all involved the sons of high-ranking officers, right?

COLONEL DUNBAR: Well, the issues with the class, one involved the sons of two officers. I don’t know whether you’d call them high-ranking. You know, they were officers, but I don’t know whether you can call them high-ranking or not. But I share your concern on those particular cases. And I would also submit, I think the investigations, which I don’t intend to go into here, were done professionally and I would have no problem with the Monitor looking at them and looking at what our results were.

MS. GLADING: The testing procedure that was used, the L-E-C-R?

COLONEL DUNBAR: LECR?

MS. GLADING: LECR, yeah. Was that -- that was a biographical test, is that right?

COLONEL DUNBAR: That’s history.

MS. GLADING: It’s your life history.

COLONEL DUNBAR: That’s history. I mean I don’t --

MS. GLADING: At the time when it was used.

COLONEL DUNBAR: I don’t think I can really talk to the LECR because, you know, I didn’t have anything to do with it.

MS. GLADING: Was that a blind-screening tool?

COLONEL DUNBAR: I’m telling you, you can ask me all the questions you want on that, and I’m not going to be able to answer it because I don’t know anything about the LECR.

MS. GLADING: Let me ask you about the Monitor’s report in January, January 10th, 2001. The Monitor discusses an extensive backlog of IAB cases. Can you -- we asked General Farmer this morning and he said he thought you were making good progress on resolving those cases. Can you tell us how -- where you are at on resolving that backlog?

COLONEL DUNBAR: Well, the -- again, as I said in my opening statement, that the backlog is still -- is still there. When I arrived I think probably for about eight months there was nothing --
nothing had been done. I got -- when I took my job, I -- and I kid you not, I mean I got boxes, Xerox boxes full of cases that I hauled home every night and every weekend and read. Unfortunately, a number of the cases I had to send back for reinvestigation because there wasn’t -- the investigation conducted wasn’t conducted to the -- it didn’t answer the questions. It didn’t -- there was no detail there. Some things were just glossed over. And I sat there with, you know, pen in hand making page after page of notes.

Then the other thing that transpired was that from 1999 to 2000, we went from, I think, 300 and some cases to 584 cases. Now, even though I raised the IAB staff from seven investigators to 21 investigators, I think the overall staff from 19 to 51 people, we still have a tremendous backlog. And it’s not getting any easier because we keep getting more and more cases. And a lot of the cases really there is no merit to them. And unfortunately what it does is that when you have so many cases, it bleeds your resources so that you can’t get things done very timely.

At my end of last year, I mean I was still finishing cases from ’96 and ’97. And now gratefully we were also processing a number of cases from the year 2000, but the Monitor wants us, in fact, initially they wanted us to be able to turn them around in 45 days, which is kind of interesting because the FBI -- I can’t even do that. I mean the cases, even in the FBI, weren’t getting done much quicker than the cases here were getting done. My problem was compounded by the fact that we were down -- we were down probably three to 400 troopers and when you increase -- when you increase Internal Affairs personnel, do you -- you know, I get letters from Cumberland County all the time about not having enough people in Bridgeton, not having enough people in Port Norris. Do I take the people off the road where they’re needed and put them all in IAB? I think we’re doing a better job. I think we’re -- there’s no question in my mind that the reports are good, of good quality. But we still have to do a lot better with the timeliness. And the timeliness is an issue.

MS. GLADING: When did you make, in the context of the Troop D, the cases that emanated out of the Troop D audit of potential discrepancies? When did you make the decision to impose the five percent cutoff?
COLONEL DUNBAR: I made that, I think, in I believe October of last year.
MS. GLADING: October of 2000?
COLONEL DUNBAR: Yeah. September or October, one of the two.
MS. GLADING: That’s all I’ve got.
SENATOR GORMLEY: Colonel, I want to thank you for your testimony.
I’d like to add a couple points to the record. One, I’m very glad that Quantico is the FBI training academy. I assume it helped with your appreciation of the Marine Corps.
COLONEL DUNBAR: Actually, PLC helped a lot more.
SENATOR GORMLEY: PLC? Okay, that’s good, too.
For the record, Ed O’Connor did serve in Viet Nam. He never talks about it, but we’re very proud of him.
And to three Deputy Attorneys General, Allison Accurso, Jeff Miller and Brian Flanagan, we are lucky as a state that you’re three attorneys who work for New Jersey. And we want to thank you, because this has been very difficult for you and people might not realize it, but you had a very difficult job to do and you did it well and you did it as professionals and you should be very proud.
I want that on the record.
This will conclude the hearing for today. I’d like to meet with the members of the Committee, the Republican and the Democrats, in the rear.
(Off the record)

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CERTIFICATION

I, PATRICIA A. KONTURA, the assigned transcriber, do hereby certify the foregoing transcript of proceedings on tape number 1, 01 to end; tape number 2, 01 to end; tape number 3, 01 to end; and tape number 4, 01 to 1770, is prepared in full compliance with the current Transcript Format for Judicial Proceedings and is a true and accurate
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